

**Trade Policy Review Body**

**TRADE POLICY REVIEW**  
**Report by the Secretariat**  
**CHINA**

This report, prepared for the fourth Trade Policy Review of China, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from China on its trade policies and practices.

Any technical questions arising from this report may be addressed to Masahiro Hayafuji (tel: 022 739 5873).

Document WT/TPR/G/264 contains the policy statement submitted by China.

---

Note: This report is subject to restricted circulation and press embargo until the end of the first session of the meeting of the Trade Policy Review Body on China.



---



---

**CONTENTS**

	<i>Page</i>
SUMMARY	ix
I. ECONOMIC ENVIRONMENT	1
(1) MAIN ECONOMIC DEVELOPMENTS	1
(2) STRUCTURAL POLICIES	4
(3) DEVELOPMENTS IN TRADE AND FOREIGN DIRECT INVESTMENT	6
II. TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES	11
(1) INSTITUTIONAL AND LEGAL FRAMEWORK	11
(i) Transparency	11
(ii) Central-provincial relationships	14
(2) DEVELOPMENT AND ADMINISTRATION OF TRADE POLICIES	15
(i) Main trade laws	15
(ii) Trade policy objectives	15
(iii) Agencies involved in trade policy formulation and implementation	15
(3) TRADE AGREEMENTS AND ARRANGEMENTS	16
(i) Participation in the World Trade Organization	16
(ii) Regional arrangements	16
(iii) Unilateral preferences	18
(4) FOREIGN INVESTMENT REGIME	18
(i) Recent developments in FDI policy	18
(ii) Regulatory framework	19
(iii) Examination and approval procedure	21
(iv) Bilateral investment treaties	23
III. TRADE POLICIES AND PRACTICES BY MEASURE	24
(1) MEASURES DIRECTLY AFFECTING IMPORTS	24
(i) Customs procedures, valuation, and rules of origin	24
(ii) Tariffs	27
(iii) Indirect taxes affecting imports	33
(iv) Import prohibitions and licensing	33
(v) State trading	35
(vi) Contingency trade measures	36
(vii) Standards and other technical requirements	45
(viii) Government procurement	53
(ix) Import-related financing	56
(2) MEASURES DIRECTLY AFFECTING EXPORTS	57
(i) Procedures	57
(ii) Export subsidies	58
(iii) Export taxes	58
(iv) Tax rebates on exports	59
(v) Tax concessions under processing trade	59
(vi) Export prohibitions, restrictions, and licensing	59
(vii) State trading on exports	61
(viii) Export finance, insurance, and guarantees	61
(ix) Promotion and marketing assistance	63

---

	<i>Page</i>
(3) MEASURES AFFECTING PRODUCTION AND TRADE	63
(i) Taxation and tax incentives	63
(ii) Subsidies and other government assistance	68
(iii) Industrial policies	72
(iv) Price controls	72
(v) State-owned enterprises, private enterprises, and corporate governance	73
(vi) Competition and consumer protection policy	77
(vii) Intellectual property rights	85
IV. TRADE POLICIES BY SECTOR	98
(1) AGRICULTURE	98
(i) Agriculture in China	98
(ii) Agriculture policies	102
(2) FISHERIES	110
(i) Fisheries in China	110
(ii) Trade	112
(iii) Fisheries policy	112
(3) ENERGY	114
(i) Policy objectives for the sector	114
(ii) Electric utilities	114
(iii) Oil and gas	115
(4) MANUFACTURING	116
(i) Recent development	116
(ii) Selected subsectors	118
(5) SERVICES	121
(i) Overview	121
(ii) Financial services	121
(iii) Telecommunications	137
(iv) Transport	145
(v) Tourism	163
(vi) Environmental services	166
(vii) Postal and courier services	167
(viii) Distribution services	168
(ix) Logistics services	170
REFERENCES	179
APPENDIX TABLES	183

---

**CHARTS**

	<i>Page</i>
<b>I. ECONOMIC ENVIRONMENT</b>	
I.1 World merchandise trade, 2011	6
I.2 Product composition of merchandise trade, 2009 and 2011	7
I.3 Direction of merchandise trade, 2009 and 2011	8
<b>III. TRADE POLICIES AND PRACTICES BY MEASURE</b>	
III.1 Average applied MFN and bound tariff rates, by HS section, 2011	29
III.2 Distribution of MFN tariff rates, 2011	30
III.3 Tariff escalation by 2-digit ISIC industry, 2011	31
III.4 Anti-dumping initiations and final measures, 2006-11	41
III.5 Structure of IPR administration and enforcement	88
<b>IV. TRADE POLICIES BY SECTOR</b>	
IV.1 Agriculture exports and imports, 1999-2010	100
IV.2(a) Green Box support, 2001-08	108
IV.2(b) Amber Box support in China, 2001-08	108

**TABLES**

<b>I. ECONOMIC ENVIRONMENT</b>	
I.1 Selected macroeconomic indicators, 2007-11	1
I.2 GDP by sector, 2007-10	5
I.3 Import content of Chinese exports, 2008	9
I.4 US-China trade balance, 2008 - adjusted for China's processing trade	10
<b>III. TRADE POLICIES AND PRACTICES BY MEASURE</b>	
III.1 China's tariff structure, 2007, 2009 and 2011	28
III.2 Summary analysis of China's preferential tariff, 2011	31
III.3 China's anti-dumping measures by product and by country (in force as of 31 December 2010)	41
III.4 Countervailing investigations and measures, 2011	43
III.5 China's standards, 2006-10	48
III.6 Government procurement by procurement of goods, construction projects, and services, 2008-10	54
III.7 Tax revenue, 2007-11	64
III.8 Number of enterprises, 2008-10	74
III.9 Tradeable and non-tradeable shares of companies listed in China, 2008-10	75
III.10 Competition legislations and enforcement	79
III.11 Intellectual property rights applications, 2009-10	86
III.12 Intellectual property enforcement, 2008-10	95
<b>IV. TRADE POLICIES BY SECTOR</b>	
IV.1 Value of output for agriculture and selected products, 2002-10	99
IV.2 Volume of agricultural production for selected products, 2002-10	99
IV.3 Yields of agricultural products for selected products, 2002-10	99
IV.4 Imports of selected agricultural products, 2001-10	101
IV.5 Exports of selected agricultural products, 2001-10	101

	<i>Page</i>	
IV.6	Minimum prices for rice and wheat, 2007-11	106
IV.7	Total producer support estimate and single commodity transfer values for selected commodities, 2002-10	110
IV.8	Fisheries production, 2002-09	111
IV.9	Trade in fisheries products, 2002-10	112
IV.10	Certified high-tech enterprises by sector, 2009-11	117
IV.11	Basic telecommunications service providers, 2011	138
IV.12	Market shares for fixed lines, 2011	138
IV.13	Market shares for mobile telephones, 2011	138
IV.14	Regulations on Internet Services	142
IV.15	China's top ten above-scale goods seaports in terms of throughput, 2010	146
IV.16	China's top ten above-scale container seaports in terms of throughput, 2010	147
IV.17	China's air transport industry main indicators, 2009-10	152
IV.18	Foreign equity participation in Chinese airlines, 2011	153
IV.19	Liberalization of air transport services under China's bilateral air service agreements, 2011	157
IV.20	Structure and development of the tourism sector, 2000 and 2008	164
IV.21	Basic conditions of freight transport, 2006-10	171

#### APPENDIX TABLES

I.	ECONOMIC ENVIRONMENT	
AI.1	Merchandise exports by group of products, 2007-11	185
AI.2	Merchandise imports by group of products, 2007-11	186
AI.3	Merchandise exports by destination, 2007-11	187
AI.4	Merchandise imports by origin, 2007-11	188
AI.5	Trade in services, 2007-10	189
II.	TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES	
AII.1	China's major trade-related laws and regulations, September 2011	190
AII.2	Principal notifications under WTO Agreements, March 2012	196
AII.3	Overview of China's free-trade agreements, 2012	200
III.	TRADE POLICIES AND PRACTICES BY MEASURE	
AIII.1	China's preferential rules of origin, 2012	204
AIII.2	Imports allocated to state-trading enterprises, 2009-11	206
AIII.3	Export products subject to state-trading arrangements, 2011	207
AIII.4	Revised vehicle and vessel tax, 1 January 2012	208
AIII.5	Excise (or consumption) tax, 2010-11	209
AIII.6	Status of selected Central-Government assistance measures in China since 2005, as stipulated in relevant laws, regulations and rules, and circulars, March 2012	211
AIII.7	China's membership of international intellectual property rights conventions, 2011	215
IV.	TRADE POLICIES BY SECTOR	
AIV.1	Summarized trade regimes of maritime transport services	216
AIV.2	Summarized trade regimes of inland waterways transport	221
AIV.3	Summarized trade regimes of air transport services	222
AIV.4	Summarized trade regimes of selected railways transport services and related construction services	225

	<i>Page</i>
AIV.5 Summarized trade regimes of road transport	228
AIV.6 Summarized trade regimes of services auxiliary to all modes of transport	231
AIV.7 Summarized trade regimes of tourism and travel-related services	232
AIV.8 Summarized trade regimes of environmental services	234

---





## SUMMARY

1. China enjoyed strong economic growth in 2010 and 2011, boosted by a ¥4 trillion fiscal stimulus package implemented in 2008-10. Growth was also helped by the recovery of world trade, but China's exports recovered less rapidly than its imports and its merchandise trade surplus continued to fall, reaching 4.3% of GDP in 2010 from levels of 9% and above before 2008. Nominal GDP per capita increased in 2011 to the equivalent of US\$5,400.

2. The stimulus provided to domestic consumption and investment was accompanied by rising prices in 2010, and in 2011 inflation was above 5%, a level that had prevailed before 2009. The authorities were concerned and reacted by tightening China's fiscal and monetary policies. At the recent National People's Congress, the GDP growth target was reduced to 7.5%, reflecting also the projected slowdown in world trade growth for 2012-13.

3. Since July 2005 (when China's exchange rate reform started), the renminbi has appreciated in nominal terms by about 31% against the U.S. dollar. The rate of appreciation has been somewhat slower in the last few years than at the beginning of the reform programme. According to the Government Report submitted to the National People's Congress in March 2012, China intends to improve the exchange rate determination mechanism for the renminbi and maintain the stability of the exchange rate around its equilibrium level, push forward the convertibility of the renminbi under the capital account gradually, and enlarge the scope of renminbi usage in cross-border transactions.

4. Aside from macroeconomic developments in the past three years, resulting from the effects of, or reactions by the authorities to, the global financial and economic crisis, China continues to have a large and persistent surplus of national savings over domestic investment and the external counterpart of a current account surplus in its balance of payments. Addressing this structural imbalance in its economy, and making growth less dependent on overseas demand for China's manufactured exports, remain important policy challenges for the authorities.

5. China has become the world's second largest exporter and remains the third largest importer of goods and services (excluding intra-EU trade). The direction of its trade has not changed since 2009. Its main trading partners for exports and imports are the EU, the United States, Japan, and the ASEAN countries, along with Hong Kong Special Administrative Region (SAR) for exports and the Republic of Korea and Chinese Taipei for imports. China's merchandise trade surplus has fallen significantly as a share of GDP. China has large bilateral trade deficits with Chinese Taipei, Korea, and Japan, from which it imports components for its export processing activities, and large bilateral trade surpluses with the United States and the EU, to which it exports final products. When measured net of imported components used in China's exports, those bilateral surpluses are significantly smaller.

6. China continues to expand its bilateral and regional free-trade agreements (FTAs). Since 2009, new FTAs with Costa Rica and Chinese Taipei entered into force. Supplementary agreements were signed with ASEAN countries, Hong Kong SAR and Macao SAR. The authorities state that FTAs are a complement to the multilateral trading system and are used to facilitate import growth.

7. There were few changes to China's policies on imports and on inward foreign investment in the period under review. Applied MFN tariffs remain close to China's bound rates, and the simple average applied MFN tariff is unchanged, at 9.5%. China uses various non-tariff border measures, such as import and export licensing and state trading to "guide" the allocation of resources. Notice-and-comment procedures are becoming more prevalent in the process of drafting trade laws,

regulations, and departmental rules, but it seems that not all trade-related information is made available to the public.

8. Subsidies and other government assistance are important features of China's trade policy and industrial policy making. China submitted a new WTO notification of its subsidies in 2011, listing programmes providing government assistance at the central government level between 2005 and 2008. However, in many cases there are no figures on the magnitude of support provided, and no information is available on subsidies and other government assistance provided at the provincial level, which are believed to be considerable.

9. China's institutional and procedural framework on anti-dumping has not changed since 2009. Three challenges to Chinese anti-dumping measures were brought to the WTO Dispute Settlement Mechanism in the period under review. In the WTO Committees on TBT and on SPS measures, some Members expressed concerns about TBT measures proposed and/or imposed by China on products ranging from cotton and textiles to lighting and light signalling devices for motorbikes, and about SPS measures proposed and/or imposed, including hygiene standards for distilled spirits, import restrictions on products, and quarantine testing, as well as China's notification practices.

10. The value of agricultural production in China has been increasing strongly over the past few years due to a combination of increased production and higher prices. However, China remains a net importer of food and agricultural products (WTO definition), with imports of US\$67 billion and exports of US\$36 billion in 2010. Agriculture policies have been changing, as well as support for infrastructure and direct payments decoupled from prices, and production along with other programmes notified to the WTO as being in the Green Box have gone up. In addition, market price support programmes, input subsidies, and other more trade- and production-distorting forms of support have increased. As China has the largest agriculture sector of any country in the world and because it is a major importer and exporter, its policies may affect other countries.

11. China is in the process of becoming a party to the Government Procurement Agreement. It submitted a revised offer in November 2011. The value of procurement by government departments, institutions, and public organizations using fiscal funds was ¥842 billion in 2010. It would appear that local governments account for a major part of government procurement in China, but no data are available on their procurement activities. The authorities maintain that there is no longer any condition attached to government procurement regarding "indigenous innovation".

12. China's export regime is complex and measures continue to be used to manage certain exports. Export duties on 17 tariff lines have been eliminated and interim export duty rates have been reduced on 21 tariff lines since 1 January 2010. At the same time, China has introduced requirements for enterprises to declare the weight percentage of rare-earth components contained in certain exports, increased the total number of tariff lines subject to export quotas, and adopted seasonal special export taxes. The authorities consider that these measures will help conserve natural resources and protect the environment

13. More broadly, China remains concerned about energy and resources conservation. A new tax rate of 5% of the sale value (previously a specific tax) is applied to crude oil and natural gas exploitation. Preferential taxes are accorded to energy management projects for eligible energy services companies.

14. The number of state-owned enterprises (SOEs) fell during the period under review, but SOEs remain dominant in certain sectors and subsectors that are "vital to national economy". According to

the authorities, the reform of non-tradeable shares of SOEs was completed by May 2011. In May 2010, China's State Council issued Certain Opinions on Encouraging and Guiding the Sound Development of Private Investment towards sectors that have been dominated by SOEs; the policies set out in the Opinions are not applied to foreign investment.

15. China revised its *Catalogue for the Guidance of Foreign Investment Industries*, which entered into force on 30 January 2012. More services sectors were added as "encouraged", while some manufacturing sectors with excess capacity were removed. The foreign equity ceilings for 11 subsectors were removed in the latest version of the Catalogue. Regarding administrative procedures for inward and outward foreign direct investment, the provincial development and reform commissions and commercial departments have been delegated to verify and approve investment projects not exceeding US\$300 million (or not above ¥300 million if investment is made with offshore renminbi).

16. Foreign investors (enterprises and individuals) have been subject to the same taxes and charges as domestic investors since 1 December 2010, when exemptions accorded to foreign investors from payment of city maintenance and construction tax and educational surcharges were abolished.

17. In addition to going through anti-trust reviews, foreigners investing through mergers and acquisitions of Chinese enterprises may be required to obtain clearance from national security reviews. The National Security Review Mechanism was entered into force on 5 March 2011.

18. A number of laws, regulations, and departmental rules on IPR protection have been promulgated or amended since 2009. These include the Copyright Law, the Implementation Regulation of the Patent Law, and the Regulation on Custom Protection of Intellectual Property. China intends to promote its campaign for tackling IPR infringement. In the latest version of the *Catalogue of Guidance for Foreign Investment Industries*, services for IPR protection is listed as "encouraged".

19. Seven industries have been identified as "strategic emerging industries" in China and receive tax preferences. Foreign-invested enterprises are encouraged to apply for the status of authentic high-tech enterprises in order to receive tax preferences. According to the authorities, no technology-transfer requirements are imposed on foreign investment projects, including new-energy car manufacturing.

20. The financial services sector is being opened up gradually. Foreign investors are allowed to hold up to 100% ownership of non-bank financial institutions (e.g. personal consumption finance); subsidiaries of foreign banks are allowed to underwrite financial bonds in the inter-bank bond market; clearing banks for the renminbi outside the Chinese territory are allowed to invest in the inter-bank bond market with the renminbi from their clearing operations.

21. Environmental services have grown rapidly in China since 2005. Overall policy is still being designed. The sector is "encouraged", in practice, with the aim of diversifying operators and attracting state-of-the-art technology. There is no ownership limit on foreign investments to engage in the operation of professional categories of environmental pollution control facilities.

22. Third-party logistics is in its early stage in China. Most enterprises provide a single logistic service, and foreign-invested operators prevail in the market. Modern logistics is listed as "encouraged", and foreign investors can hold up to 100% ownership. Currently, there is no single authority to regulate the sector.

23. Online retail distribution services grew by 44% in 2010. Foreign presence of online retail continues to be "restricted" in the 2011 *Catalogue for the Guidance of Foreign Investment Industries*. Foreign-invested retailers prevail in the large supermarket and high-end department stores subsector.

24. Trade aspects of the regulatory framework for telecommunication, transport, and tourism remain largely unchanged since 2009. In line with the amendment of the Postal Law in 2009, domestic express delivery services are listed as "prohibited" in the Catalogue.

## I. ECONOMIC ENVIRONMENT

### (1) MAIN ECONOMIC DEVELOPMENTS

1. During the period under review (2010-12), China's economy continued to grow rapidly. Supported by a substantial fiscal stimulus amounting to ¥4 trillion (12.7% of GDP in 2008), China emerged from the global financial and economic crisis with strong growth in 2010 and 2011 (Table I.1). At the same time, with increasing world prices of primary commodities and domestic food and energy prices, rising property prices in urban areas, and increasing wages, consumer price inflation (5.4% in 2011) became a pressing social and economic issue. At the People's National Congress in March 2012, China lowered its prospects for annual growth to 7.5% for 2012; in 2011, growth had been projected officially at 8% and in fact was recorded at 9.2%. In 2010 and 2011, China's nominal GDP per capita (in U.S. dollar terms) increased from around US\$4,430 to US\$5,417.

2. China continues to face various economic imbalances. One is its large and persistent surplus of national savings over domestic investment, which has as its international counterpart China's current account surplus in its balance of payments. The second is China's heavy dependence on overseas demand for its manufactured exports to sustain economic growth.

**Table I.1**  
Selected macroeconomic indicators, 2007-11

	2007	2008	2009	2010	2011 <sup>a</sup>
Nominal GDP (¥ billion)	26,581.0	31,404.5	34,090.3	40,151.3	47,156.4
Nominal GDP (US\$ billion)	3,495.7	4,521.8	4,990.5	5,931.2	7,298.6
Real GDP (¥ billion, 2005 prices)	23,789.3	26,081.3	28,484.5	31,460.3	34,354.6
Real GDP (US\$ billion, 2005 prices)	3,128.5	3,755.4	4,169.9	4,647.4	5,317.2
GDP per capita (¥)	20,169.5	23,707.7	25,607.5	30,015.0	34,999.4
GDP per capita (US\$)	2,652.5	3,413.6	3,748.7	4,433.9	5,417.0
<b>National accounts (%age change)</b>					
Real GDP	14.2	9.6	9.2	10.4	9.2
Consumption <sup>b</sup>	5.6	4.2	4.4	3.8	..
Investment <sup>b</sup>	6.1	4.6	8.4	5.6	..
Net exports <sup>b</sup>	2.5	0.8	-3.6	0.9	..
Unemployment rate (%) <sup>c</sup>	4.1	4.4	4.3	4.1	4.1
<b>Prices and interest rates</b>					
Inflation (CPI, %age change)	4.8	5.9	-0.7	3.3	5.4
Lending rate (% , period average)	7.47	5.31	5.31	5.81	6.56
Deposit rate (% , period average)	4.14	2.25	2.25	2.75	3.50
<b>Exchange rate</b>					
Yuan per US\$ (period average)	7.604	6.945	6.831	6.770	6.461
Real effective exchange rate index (%age change) <sup>d</sup>	4.0	9.2	3.4	-0.5	..
Nominal effective exchange rate index (%age change)	1.4	6.6	5.0	-1.9	..
<b>Fiscal policy<sup>e</sup> (% of GDP)</b>					
Government balance	0.6	-0.4	-2.3	-1.7	..
Total revenue	19.3	19.5	20.1	20.7	22.0
Tax revenue	17.2	17.3	17.5	18.2	19.0
Total expenditure	18.7	19.9	22.4	22.4	..
Central government total debt	19.6	17.0	17.7	16.8	..
Domestic debt	19.4	16.8	17.5	16.7	..

Table I.1 (cont'd)

	2007	2008	2009	2010	2011 <sup>a</sup>
<b>Saving and investment</b>					
GDP by expenditure approach (¥ billion)	26,309.4	31,490.1	34,631.7	39,430.8	..
Final consumption expenditure (¥ billion)	12,879.4	15,234.7	16,682.0	18,690.5	..
Gross capital formation (¥ billion)	11,091.9	13,832.5	16,446.3	19,169.1	..
Net export of goods and services (¥ billion)	2,338.1	2,422.9	1,503.3	1,571.2	..
Savings (¥ billion)	13,430.0	16,255.5	17,949.7	20,740.2	..
Savings to expenditure approach GDP (%)	51.0	51.6	51.8	52.6	..
Investment to expenditure approach GDP (%)	42.2	43.9	47.5	48.6	..
Savings-Investment gap (% of GDP)	8.9	7.7	4.3	4.0	..
<b>External sector (% of GDP, unless otherwise indicated)</b>					
Current account balance	10.1	9.1	5.2	5.2	2.8
Net merchandise trade	9.0	8.0	5.0	4.3	3.3
Value of exports	34.9	31.7	24.1	26.7	26.1
Value of imports	25.9	23.7	19.1	22.4	22.7
Services balance	-0.2	-0.3	-0.6	-0.4	-0.8
Capital account	0.1	0.1	0.1	0.1	0.1
Financial account	2.6	1.0	3.5	3.7	3.0
Direct investment	4.1	2.7	1.4	2.1	2.3
Balance-of-payments	13.2	10.6	8.0	8.0	5.3
Merchandise exports <sup>f</sup> (%age change)	25.8	17.6	-16.1	31.4	20.4
Merchandise imports <sup>f</sup> (%age change)	20.3	18.7	-11.1	39.1	25.1
Service exports <sup>f</sup> (%age change)	32.8	20.4	-11.9	32.2	6.8
Service imports <sup>f</sup> (%age change)	29.0	22.1	0.0	21.6	23.2
Gross official reserves <sup>g</sup> (US\$ billion; end period)	1,530.3	1,949.3	2,416.0	2,866.1	..
Foreign exchange <sup>h</sup> (US\$ billion; end period)	1,528.2	1,946.0	2,399.2	284.7	..
Total external debt (US\$ billion; end period)	389.2	390.2	428.7	548.9	..
Debt service ratio <sup>i</sup>	2.0	1.8	2.9	1.6	..

.. Not available.

a Estimates.

b Contribution to annual growth in per cent. Figures are taken from the National Bureau of Statistics of China, *Statistical Yearbook 2011*, Table 2-20.

c Registered unemployment in urban areas.

d A positive increase in the real effective exchange rate means an appreciation of the renminbi relative to the other major currencies in the index.

e Including central and local governments.

f Growth rates on merchandise and service trade are based on US\$.

g Excluding gold, including SDRs and Reserve Position in the Fund.

h Excluding gold, SDRs and Reserve Position in the Fund.

i Debt service ratio refers to the ratio of the payment of principal and interest of foreign debts to the foreign exchange receipts from foreign trade and non-trade services of the current year.

Source: National Bureau of Statistics of China, *Statistical Yearbook (various issues)*; IMF, *International Financial Statistics database*; and data provided by the Chinese authorities.

3. During the period under review, China adopted few measures to liberalize its international trade and investment; its simple average applied MFN tariff rate (9.5%) as well as the main measures related to trade and investment remained unchanged. Like most other WTO Members, China resisted a trade-restrictive response overall to the effects of the global economic crisis. However, in a number of instances, China introduced measures that restrict or may restrict trade, notably exports.<sup>1</sup> China's export regime remains complex, and measures continue to be used to manage certain exports.

<sup>1</sup> See WTO documents WT/TPR/OV/13, 24 November 2010 and WT/TPR/OV/14, 21 November 2011.

4. China considers its participation in regional and bilateral agreements to be complementary to its membership in the multilateral trading system and to offer it additional ways of expanding and diversifying its trade.

5. China is moving back gradually toward fiscal tightening after the expansive ¥4 trillion fiscal stimulus package introduced in 2008-10.<sup>2</sup> According to the 2011 Budget, the central government budget and local government budgets combined for 2011 will produce collectively a fiscal deficit of 2.0% of GDP, down from 2.2% in 2010; central government gross debt is estimated at around 16.8% of GDP for 2011, down from 17.7% in 2009.<sup>3</sup>

6. Against the background of the global financial crisis in 2008, the People's Bank of China (PBC) employed accommodative monetary policy to help stimulate domestic demand.<sup>4</sup> In 2010 and 2011, as recovery of economic growth set in and domestic price inflation began accelerating, the PBC raised its benchmark interest rates on both deposits and loans five times and raised the deposit reserve ratio 12 times. The rate of increase in money supply declined in 2011 and new bank lending also declined.<sup>5</sup> Subsequently, the PBC lowered the deposit reserve ratio by 0.5 percentage point on 5 December 2011.

7. Between July 2005 (when China's exchange rate reform started) and December 2011, the renminbi appreciated in nominal terms by about 31% against the U.S. dollar. The renminbi's annual average nominal exchange rate was ¥6.77 per US\$ for 2010 and 6.46 for 2011.

8. In their most recent public evaluation of China's exchange rate, IMF directors welcomed the authorities' commitment to move gradually to more price-based tools of monetary policy and continue to improve the monetary policy framework and the interest rate structure; they saw room for a further tightening of monetary conditions through greater reliance on interest rates and nominal exchange rate appreciation, while taking care to safeguard financial system stability. They generally agreed that, over the medium-term, a stronger RMB would be an important component in rebalancing the economy toward domestic demand, and a number of the directors saw this as a prerequisite for reforms to strengthen the macroeconomic policy framework and promote financial liberalization. IMF directors stressed that the appreciation of the exchange rate would need to be supported by wide-ranging reforms to bring about a transformation of China's economic growth model.<sup>6</sup>

---

<sup>2</sup> In the ¥4 trillion stimulus package, the authorities state that the Government substantially increased its input to, *inter alia*, livelihood projects, infrastructure, and reconstruction efforts after disasters; its pool of public investment resources came from, *inter alia*, budgetary allocations from the public finance, governmental funds' revenue, and earnings from business operations of state-owned assets. Meanwhile, a series of measures, like structural tax reductions, and the cancelation or termination of multiple administrative fees, were taken to substantially reduce the burden on businesses and ordinary people.

<sup>3</sup> IMF (2011a). The central government debt is estimated to be around 60% of GDP when off-budget government debt is included, such as debt owed by policy banks, local governments, asset management companies, pension, and banks' non-performing loans.

<sup>4</sup> This involved, *inter alia*, cuts in interest rates and reserve requirements, reduction in foreign exchange sterilization operations, and "windows guidance", which, according to the authorities, involves the PBC convening meetings with financial institutions, or holding talks with them, to, *inter alia*, obtain information on their credit loans, provide information on the macro-economy and industrial development, prompt industry risks so that financial institutions will take the initiative to adjust the direction of credit loans.

<sup>5</sup> In 2011 (January-May), M2 rose by 15.1% year-on-year, down 4.6 percentage points compared with the same period in the previous year.

<sup>6</sup> IMF online information. Viewed at: <http://www.imf.org/external/np/sec/pn/2011/pn1194.htm> [01/09/11].

9. The PBC maintains that under China's "managed floating" exchange rate regime, the RMB rate is based on market supply and demand and is adjusted with reference to a basket of currencies. The authorities consider that against the background of the global economic recession, when, according to the PBC, many governments allowed their currencies to depreciate in order to mitigate the negative impact of the crisis on their exports, China maintained a stable RMB exchange rate. According to the authorities, on 19 June 2010, China began a reform of the renminbi exchange rate mechanism with a view to gaining more flexibility in renminbi exchange rates. Emphasis was laid on the law of supply and demand and adjustments based on a basket of currencies within a specified floating range on the foreign exchange market. The authorities state that efforts should be made to promote a proper balance between international income and expenditure and maintain the stability of the macro-economy as well as that of the financial market; they consider that RMB is converging towards its equilibrium and expect this process to continue over the medium term. According to the Government Report submitted to the National People's Congress in March 2012, China intends to: improve the exchange rate determination mechanism for renminbi and maintain the stability of renminbi exchange rates around its equilibrium level; push forward the convertibility of renminbi under the capital account gradually and enlarge the scope of renminbi usage in cross-border trade settlement and investment.<sup>7</sup>

## (2) STRUCTURAL POLICIES

10. As stated in the Secretariat's report for the previous Review, despite China's important economic achievements against the background of its transition from a centrally planned to a market-based economy, it continues to face various economic imbalances, including a large surplus of national savings over domestic investment and overcapacity in several core industries (Chapter IV(4)(ii)). Managing and correcting these imbalances represents a challenge for China's policymakers, both for domestic purposes and from an international perspective, because of China's size and the depth of its integration into the global economy.

11. China continues to maintain a large surplus of national savings over domestic investment, which produces its international counterpart in China's current account surplus in its balance of payments. This continues to frustrate the authorities' efforts to reduce China's reliance on exports as a source of growth. The national saving rate was estimated at 54.0% of GDP in 2011, compared with the domestic investment rate of 48.5% of GDP.<sup>8</sup> The high national savings rate is attributable to both high household savings, including precautionary saving for education, health and old age, and high enterprise saving, partly due to high retained income (so as not to rely on the underdeveloped capital market), lack of competition for state-owned enterprises (SOEs), and a lack of incentives for SOEs to pay dividends.<sup>9</sup>

12. Reform of China's capital market has continued with a view to creating more efficient allocation of savings in the economy and reducing the need for discretionary saving by private enterprise. One indication of this is a gradual shift from non-tradeable to tradeable equities. In the past, China's stock market had a split-share structure, with large volumes of non-tradeable shares for listed enterprises (including SOEs); only around one third of the shares were tradeable. China began converting non-tradeable shares into tradeable shares from 2005; according to the authorities, 99% of listed companies had undergone the split-share structure reform by the end of 2011, on both the Shanghai and Shenzhen stock exchanges. Once the reforms are completed, original non-tradeable

<sup>7</sup> Xinhua net online information (in Chinese). Viewed at: [http://news.xinhuanet.com/politics/2012lh/2012-03/15/c\\_111660147.htm](http://news.xinhuanet.com/politics/2012lh/2012-03/15/c_111660147.htm).

<sup>8</sup> IMF (2011a).

<sup>9</sup> IMF (2011b).



shares become tradeable after a specified period; no data on the percentage of total shares already floated were made available to the Secretariat. China's corporate bond market remains small; outstanding bonds issued as a form of debt were valued at only 9.8% of GDP in 2011.<sup>10</sup>

13. The 12<sup>th</sup> Five-Year Plan aims to reform China's economy into one that is more driven by growth of domestic demand. It is anticipated that this will have the effect of increasing the consumption of imported goods and services (Chapter II(2)(ii)). Further steps to liberalize trade in various sectors can assist in this process, including services which accounted for 43% of GDP in 2010 (Table I.2).

**Table I.2**  
**GDP by sector, 2007-10**

	2007	2008	2009	2010
<b>GDP by industry at 1978 indices (annual %age change)</b>				
Agriculture, forestry and fishing	3.7	5.4	4.2	4.3
Industry <sup>a</sup>	14.9	9.9	8.7	12.2
Construction	16.2	9.5	18.6	13.7
Services	16.0	10.4	9.6	9.6
Transport, storage and communication	11.8	7.3	4.2	8.9
Wholesale and retail trade	20.2	15.8	12.1	14.3
Restaurants and hotels	9.6	9.6	5.5	10.0
Financial intermediation	27.6	13.3	18.2	10.0
Real estate	24.4	1.0	11.3	5.8
Other	11.3	11.0	7.8	8.0
<b>Share of main sectors in GDP (%)</b>				
Agriculture, forestry and fishing	10.8	10.7	10.3	10.1
Industry <sup>a</sup>	41.6	41.5	39.7	40.1
Construction	5.8	6.0	6.6	6.7
Services	41.9	41.8	43.4	43.1
Transport, storage and communication	5.5	5.2	4.9	4.7
Wholesale and retail trade	7.9	8.3	8.5	8.9
Restaurants and hotels	2.1	2.1	2.1	2.0
Financial intermediation	4.6	4.7	5.2	5.2
Real estate	5.2	4.7	5.5	5.6
Other	16.6	16.7	17.2	16.7

.. Not available.

a Including mining and quarrying, manufacturing, production and supply of electricity.

Source: Data provided by the Chinese authorities.

14. High household and enterprise savings in China have kept capital costs low. Input prices (such as energy, water, and land) have also been regulated and kept low as the Government has emphasized the development of manufacturing, especially heavy industry. Thus, China's manufacturing, including steel, aluminium, and cement, has continued to tend towards over-investment and overcapacity (Chapter IV(4)(ii)). The privileged position of SOEs (e.g. in their access to bank lending) has also contributed to over-investment and overcapacity in the economy.

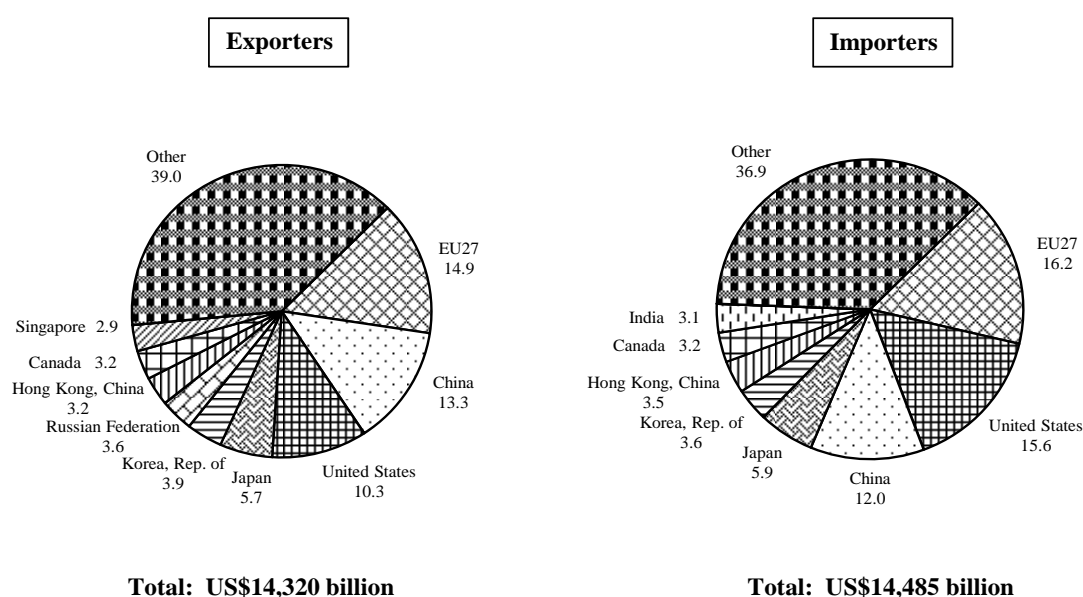
<sup>10</sup> Data provided by the Chinese authorities.

(3) DEVELOPMENTS IN TRADE AND FOREIGN DIRECT INVESTMENT

15. China has become the world's second largest exporter and third largest importer of goods (excluding intra-EU trade) (Chart I.1).<sup>11</sup> Its merchandise exports contracted more sharply than its imports in 2009, and exports recovered less quickly than imports in 2010 and 2011, with the result that China's net trade surplus has continued its declining trend and stood at 3.3% of GDP in 2011 (based on China's balance of payments statistics).

**Chart I.1**  
**World merchandise trade, 2011**

Per cent



**Note:** Figures exclude intra-EU27 trade.

**Source:** WTO press release, *PRESS /658*, 12 April 2012.

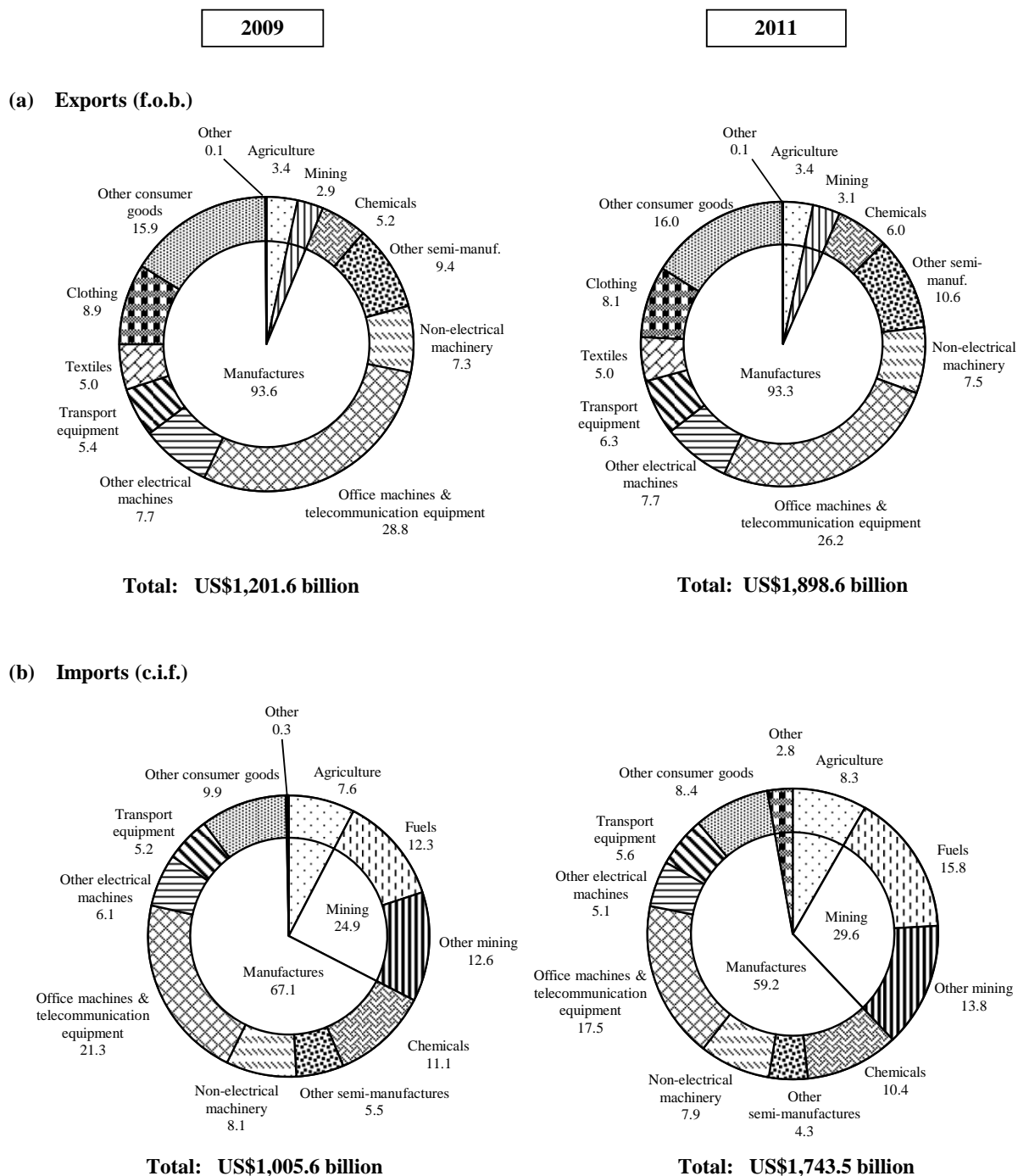
16. In 2011, manufactured products remained the dominant component of China's exports (Table AI.1). Of manufactured products, office machines and telecommunication equipment and textiles and clothing were its main exports (Chart I.2). Exports under "processing trade" (under which enterprises import inputs, assemble them in bonded areas, and export the assembled products) accounted for about 44% of total trade. Processing trade recovered in 2010 after a fall in 2009, reflecting the difficulties of foreign invested enterprises (FIEs) after the outbreak of the global crisis in 2008.

17. In 2011, imports under processing trade accounted for 26.9% of China's total merchandise imports (down from 32.1% in 2009) (Table AI.2). China's main merchandise imports include office machines and telecommunication equipment, fuels, and chemicals (Table AI.3).

<sup>11</sup> China was also the world's second largest exporter and third largest importer of goods and services (excluding intra-EU trade) in 2011.

**Chart I.2**  
**Product composition of merchandise trade, 2009 and 2011**

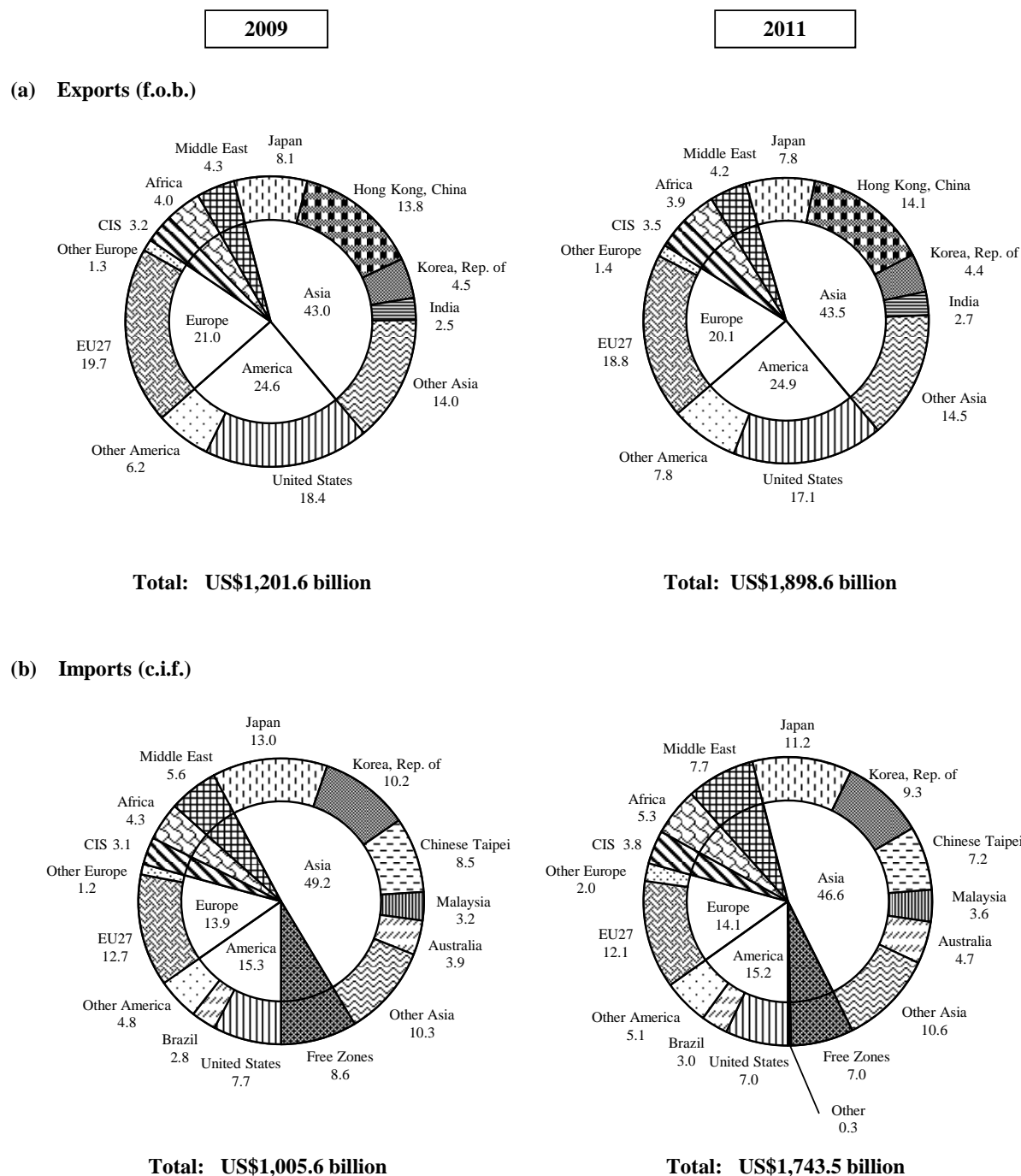
Per cent



Source: UNSD, Comtrade database (SITC Rev.3), and General Administration of Customs (2011), *China's Customs Statistics: Monthly Exports & Imports, 12, Series No. 268.*

**Chart I.3**  
**Direction of merchandise trade, 2009 and 2011**

Per cent



Source: UNSD, Comtrade database (SITC Rev.3), and General Administration of Customs (2011), *China's Customs Statistics: Monthly Exports & Imports*, 12, Series No. 268.

18. In 2011, the main destinations for China's merchandise exports remained the EU, the United States, Hong Kong SAR, and Japan (unchanged since 2009) (Chart I.3), as well as ASEAN countries (Table AI.4). The main sources of its imports were Japan, the EU, the Republic of Korea, Chinese Taipei, and the United States, as well as ASEAN countries (unchanged since 2009) (Table AI.5).

19. Over the past five years, China's net merchandise trade surplus (exports minus imports) has fallen significantly as a share of GDP; it fell from 9% in 2007 to 3.3% in 2011 (Table I.1).

20. Nevertheless, frictions remain with some of China's main trading partners over the levels of their bilateral trade balances with China. When measured by traditional trade statistics, which attribute the entire commercial value of an exported good to the last country of origin in the global supply chain, China continues to have particularly large bilateral trade deficits with some Asian economies, notably Chinese Taipei, Korea, and Japan, from which it imports components for its export processing activities, and large bilateral trade surpluses with the United States and the EU, to which it exports final products.

21. Those bilateral surpluses are significantly smaller when measured net of the imported components used in China's exports. This gives a better measure of the level of domestic economic activity in China that is actually supported by its much vaunted success as an exporting nation. One study has estimated that, for 2008, the average import content of China's total production was 37% (Table I.3). The implication of this is that, after adjusting to net out this import content, China's bilateral trade surplus with the United States would have been recorded in 2008 at US\$225 billion rather than the US\$285 billion shown in traditional trade statistics, a reduction of 21%. When additional adjustments were made to the data to capture the very high import content of output from China's export processing zones (56%), thereby attributing to China only the domestic value added incorporated in its exports, the bilateral trade surplus recorded with the United States would have been reduced even further, by 40%, to US\$165 billion (Table I.4).

**Table I.3**  
**Import content of Chinese exports, 2008**  
(Billion U.S. dollars and %)

	Exports	Imports
<b>Total</b>	1,429	1,133
Processing and assembling	111	90
Processing with imported materials	565	288
<b>Total processing trade</b>	676	378
<b>Total non-processing trade</b>	753	755
Import content of Chinese exports:		
1. From processing zones = 56%		
2. From non-processing zones = 19.7%		
3. Weighted average of processing and non-processing zones = 37%		

Source: Degain, C. and A. Maurer, (2010), *Globalization and trade flows: what you see is not what you get!*, WTO Working Papers, ERSD-2010-12.

22. In other words, in 2008, exports from China to the United States were valued by traditional trade statistics at US\$356 billion. However, only US\$224 billion of that total represented value added generated within the Chinese economy – the remaining US\$132 billion originated in other countries that were supplying imported components to China, which ended up in final goods sold in the U.S. market.

23. In 2011, services comprised 8.8% of China's total exports (merchandise and services) and 12.5% of its imports.<sup>12</sup> China's exports of travel increased by 5.9% and transportation by 4.1% in 2011. Imports of transportation increased by 27.0% and travel by 32.2%.

**Table I.4**  
**US-China trade balance, 2008 - adjusted for China's processing trade**  
(Billion U.S. dollars and %)

	Not adjusted	Adjusted <sup>a</sup>
	2008 <sup>b</sup>	2008 <sup>b</sup>
U.S. exports to China (traditional statistics)	71	71
U.S. share of domestic content in exports (%)	84	84
U.S. exports to China (in value-added terms)	60	60
U.S. imports from China (traditional statistics)	356	356
China's share of domestic content in exports (%)	80	63
U.S. imports from China (in value-added terms)	285	224
<b>Trade balance (traditional statistics)</b>	-285	-285
<b>Trade balance (in value-added terms)</b>	-225	-165
<b>Ratio trade balance (value added/traditional) (%)</b>	79	58

a To reflect high import intensity of exports from processing zones.

b Excluding the "construction" sector.

Source: Degain and Maurer (2010), *Globalization and trade flows: what you see is not what you get!*, WTO Working Papers, ERSD-2010-12.

24. China remains one of the largest recipients of FDI in the world. In 2010, it attracted US\$105.7 billion of FDI, up 11.3% from 2009. In 2009, FDI inflows fell by 12.3%.<sup>13</sup>

25. China has become an important source of FDI. In 2010, it ranked fifth in the world, with outward FDI of US\$68 billion, up 20% from 2009. The Government continues to encourage Chinese companies to invest abroad, in energy, raw materials, agriculture, manufacturing, services, and infrastructure.<sup>14</sup>

<sup>12</sup> WTO Secretariat calculation, based on SAFE online information on balance of payments. Viewed at: [http://www.safe.gov.cn/model\\_safe\\_en/tjsj\\_en/tjsj\\_list\\_en.jsp?ID=3030400000000000&id=4](http://www.safe.gov.cn/model_safe_en/tjsj_en/tjsj_list_en.jsp?ID=3030400000000000&id=4) (in Chinese) [05/12/11].

<sup>13</sup> UNCTAD (2011).

<sup>14</sup> Xinhua net online information (in Chinese). Viewed at: [http://news.xinhuanet.com/politics/2012lh/2012-03/15/c\\_111660147.htm](http://news.xinhuanet.com/politics/2012lh/2012-03/15/c_111660147.htm).

## II. TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES

### (1) INSTITUTIONAL AND LEGAL FRAMEWORK

1. There have been no major changes to China's institutional and legal framework regarding trade since 2010.<sup>1</sup>

2. Under the 12<sup>th</sup> Five-Year Plan, issued on 16 March 2011, China aims to enhance its administrative efficiency by optimizing its structure, administration layers, and functional responsibilities, and promote the reform of big ministries/departments, with an emphasis on solving the problem of redundant agencies, overlapping competence, and conflicting policies.<sup>2</sup>

3. The WTO Agreements and China's Protocol of Accession are implemented domestically through enabling legislation. Both the Civil Procedure Law and the relevant judicial interpretations accept the principle that, when an international treaty concluded or acceded to by China contains provisions that differ from the provisions of the Civil Procedure Law, the provisions of the international treaty will apply, except for cases in which China has made reservations.

#### (i) Transparency

4. Since its previous Review, China has taken some small steps to improve transparency. The State Council issued a few circulars to direct government agencies at all levels to enhance, *inter alia*, government information disclosures; public consultations for drafting regulations and rules; and administrative reconsideration (appeal).<sup>3</sup>

5. Nonetheless, many aspects of China's trade and investment policy regime remain complex and opaque, leaving scope for administrative discretion and corruption. According to a 2011 Corruption Perception Index, which measures perceptions of corruption among public officials and politicians in 183 countries, China ranked 75<sup>th</sup>, with a score 3.6 out of 10, almost identical to its ranking in 2009.<sup>4</sup>

#### (a) Information dissemination

6. Under the Provisions on the Disclosure of Government Information, which entered into force on 1 May 2008, governments at the central and local levels must: establish the processes for information disclosure; formulate guides and catalogues on the information to be disclosed; and improve the publication of information and systems concerning performance review, public comments, annual reporting, and accountability. Government agencies must disclose, on their own

---

<sup>1</sup> The National People's Congress and its Standing Committee exercise legislative power; the State Council, i.e. the Central People's Government, is the executive body of the highest organ of state power and the highest organ of state administration; China's judicial system consists of the Supreme People's Court, the local people's courts at different levels, and special courts such as military, railway, and maritime courts.

<sup>2</sup> The 12<sup>th</sup> Five-Year Plan, Section 1, Chapter 46.

<sup>3</sup> The General Office of the State Council is in charge of guiding and supervising the disclosure of government information. The National Corruption Prevention Bureau, which reports directly to the State Council, is responsible for assuring the transparency of government information at various levels; with a view to preventing corruption, it monitors the flow of suspicious assets and corruption activities. The Legislative Affairs Office of the State Council is responsible for checking coherence of regulations, and carrying out public consultations for draft regulations.

<sup>4</sup> Transparency International online information. Viewed at: <http://cpi.transparency.org/cpi2011/results>.

initiative, information that, *inter alia*: involves the vital interests of citizen, legal persons or other organizations; need to be broadly known to the public; reflects the structure, functions, procedure, and condition related to the administrative agencies; and is required to be disclosed in accordance with other laws and regulations. Such "voluntary" disclosure of information to the public must be conducted within 20 working days from the day the information is formed or revised. Government agencies must respond to disclosure requests from the public within 15-30 working days.<sup>5</sup>

7. The Provisions on the Disclosure of Government Information define government information and a mechanism of related administrative remedies. The Government has identified problems of administrative disclosure including implementation, comprehensiveness of disclosure, procedural problems, and the balance between information disclosure and confidential information.<sup>6</sup> On judicial procedures regarding information disclosure, the Regulations on Trials over Administrative Litigation Cases of Government Information Disclosure, a judicial interpretation of the Supreme People's Court (entered into force on 13 August 2011), stated that the People's Courts must register litigation claiming that the Government did not provide appropriate information in time, in response to the applicant's request.

8. The website of the China Legislative Information Network System, which is maintained by the Legislative Affairs Office of the State Council, publishes mainly the central government's trade-related laws and regulations as well as some trade-related departmental rules by the central governmental agencies, in Chinese. In addition, it provides on-line or off-line links to other agencies and ministries that are responsible for drafts of administrative regulations and departmental rules proposed for public comments; it also has links to local government legislative affairs offices. According to the authorities, all draft administrative regulations have been published on the website for public comments since 2008.<sup>7</sup> In addition, MOFCOM's China Foreign Trade and Economic Gazette publishes China's trade-related laws, regulation, and rules.

9. Neither *ex ante* nor *ex post* economic evaluations of policies and measures (including tax and non-tax incentives) are published, indicating that this form of transparency is not a major feature of China's institutional framework, to the detriment of public accountability and thus governance.

10. Upon accession to the WTO, China established enquiry points and enquiry websites under the Ministry of Commerce (MOFCOM), and the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ).<sup>8</sup>

(b) Consultations with the private sector, including notice and comment procedures

11. In accordance with the Legislation Law and its relevant regulations<sup>9</sup>, when administrative regulations, rules of the State Council ministries and local governments are drafted<sup>10</sup>, the opinions of

---

<sup>5</sup> Article 14 of the Provisions excludes information regarding national security, commercial secrets, and personal privacy.

<sup>6</sup> See the Circular of Opinions on Deepening Administrative Disclosure and Strengthening Administrative Service, issued by the General Office of the State Council on 2 August 2011. Viewed at: [http://www.gov.cn/jrzq/2011-08/02/content\\_1918496.htm](http://www.gov.cn/jrzq/2011-08/02/content_1918496.htm).

<sup>7</sup> WTO document S/C/M/92, 12 December 2008, paragraph 24.

<sup>8</sup> The enquiry points are: <http://sms.mofcom.gov.cn/> (MOFCOM), and <http://www.tbt-sps.gov.cn/sites/english/Contact/Pages/default.aspx> (AQSIQ).

<sup>9</sup> Relevant regulations include the Regulations on Procedures for Formulation of Administrative Regulations (State Council Decree 321), and the Regulation on Procedures for Formulation of Departmental Rules (State Council Decree 322), effective 1 January 2002.



relevant authorities, other organizations, and citizens must be solicited extensively, particularly regarding major issues in the regulations. Consultations may be carried out through symposiums, workshops, "expert" discussion meetings, seminars, and public hearings. If the regulations or rules are "directly involved with immediate interests of citizens, legal persons or other organizations", or if relevant authorities, organizations or citizens have major differing opinions on them, the drafting authority must publish such regulations/rules for public comments; it may also hold public hearings.<sup>11</sup> It would appear that regulatory agencies have discretion to decide whether a hearing is held, whom to invite (e.g. affected foreign parties), and how the hearing is organized.<sup>12</sup>

12. On 10 October 2010, the State Council issued Certain Opinions on Strengthening the Building of a Government Ruling by Law with a view to clarifying obligations of ministries and agencies to solicit public comments on draft administrative regulations and departmental rules. Under the Opinions, administrative agencies at the central and provincial levels must solicit public comments when developing administrative regulations and departmental rules; they are also required to broaden the scope of information disclosure and to enhance administrative reconsideration and litigations. Although, according to the authorities, all draft administrative regulations have been published on the China Legislative Information Network for public comments since 2008, it would appear that not all departmental rules have been published (e.g. on the China Legislative Information Network or on ministry/agency websites) for public comment. The authorities state that "expert hearings" have been conducted for all trade-related laws and regulations in the drafting process. It was not clear to the Secretariat to what extent affected foreign investors were involved in the consultations, or whether proceedings or minutes of the hearings were available to the public.

13. All drafts of trade-related administrative regulations and departmental rules that are published for public comment must provide a comment period of not less than 30 days, subject to exceptions.<sup>13</sup> With some exceptions, regulations and rules enter into force 30 days after promulgation.<sup>14</sup>

14. The authorities maintain that suggestions from the public on legislation are usually sufficiently reflected in drafts of laws and administrative rules. However, according to the OECD, public participation in policy formulation in China is still at a relatively early stage, characterized by informing the public rather than collecting opinions for improving policy making.<sup>15</sup>

---

<sup>10</sup> For a more detailed explanation of China's legal structure and legislative process, see WTO (2006), p. 36.

<sup>11</sup> The drafting agencies must give the public a 30-day notice about the date, time, venue, and topics of public hearings. If regulatory agencies, in the process of drafting, do not publish the draft to the public, and do not conduct any public hearing, the legislative organization may seek approval from the corresponding ministry or the government at its corresponding level to publish the drafts, and conduct public hearings. Minutes of the public hearings must be made; and responses to and treatment of comments from public hearing must be explained and justified when the draft rules are sent for verification.

<sup>12</sup> OECD (2009b), p. 103.

<sup>13</sup> Agreement on the 4<sup>th</sup> Sino-US Strategic Economic Dialogue, June 2008. Viewed at: <http://www.america.gov/st/texttrans-english/2008/June/20080619150342xjsnommis0.7032129.html> [3 August 2011].

<sup>14</sup> Regulations and rules that are related to national security, foreign exchange, monetary policies, or whose implementation will be hindered by non-immediate effect, will enter into effect on the day of promulgation. The Legislative Affairs Office of the State Council issued a circular (Guo Fa Han 2002/134) to the legislative affairs agencies of ministries (at the central level) and local governments (at the provincial level) to urge strict adherence to the 30-day notice for all departmental rules/provincial regulations.

<sup>15</sup> OECD (2010b), p. 220.

(c) Appeal procedures

15. In accordance with the Interim Measures Concerning Complaints from Foreign-invested Enterprises<sup>16</sup>, the Complaint Coordination Office for Foreign-invested Enterprises and the National Complaint Centre for Foreign-invested Enterprises under MOFCOM supervise and handle complaints from foreign-invested enterprises that consider their rights have been impaired by the authorities. Data on actual complaints were not made available to the Secretariat.

16. In accordance with the Law on Administrative Reconsideration<sup>17</sup>, any citizens, organs, or other organizations may file appeals with a view to preventing and correcting specific administrative acts that are deemed illegal or improper, within 60 days of the occurrence of the administration action that they believe has damaged their legitimate rights. A pilot programme to establish "administrative reconsideration commissions", which are independent from other government agencies, was launched in 2008 in Beijing, Heilongjiang, Jiangsu, Shandong, Henan, Guangdong, Hainan, and Guizhou.<sup>18</sup>

(ii) Central-provincial relationships

17. The Constitution of China provides that all levels of administration are subordinated to the State Council. It would appear that responsibilities at the sub-national government level are not precisely defined and may differ among provinces.<sup>19</sup> Where the division of responsibilities between the central and local governments is not clear, delegation from the central executive is the most common manner of policy implementation. In effect, China has a shared governance structure that requires continuous negotiations among different levels of government.<sup>20</sup>

18. Laws are passed and enacted by the National People's Congress and its Standing Committee. The State Council promulgates national regulations and policies. For the implementation of laws, regulations, and "national policies", the authorities at the provincial level may enact implementation measures with effect within the local administrative territories. These implementation measures may vary across regions, reflecting the different local interests. The Constitution and other relevant statutes clarify that local regulations must yield before regulations of higher status.<sup>21</sup> The Legal Affairs Office of the State Council reviews local regulations to assure policy coherence.

19. Ministerial-level administrative agencies promulgate administrative rules, which are expected to be applied uniformly nationwide. Implementation and enforcement of national policies and measures are carried out mostly by counterpart agencies of local governments, except for those ministerial agencies that have local branches. Nonetheless, coordination between the agency at the central level and its counterparts at the local level remains weak, raising issues of policy coherence. According to the authorities, higher level agencies tend to use the argument "local yields to central" to solve conflicts.

---

<sup>16</sup> MOFCOM Decree 2006/2, effective 1 October 2006 (in Chinese). Viewed at: [http://www.gov.cn/gongbao/content/2007/content\\_494436.htm](http://www.gov.cn/gongbao/content/2007/content_494436.htm).

<sup>17</sup> National People's Congress online information. Viewed at: [http://www.npc.gov.cn/englishnpc/Law/2007-12/11/content\\_1383562.htm](http://www.npc.gov.cn/englishnpc/Law/2007-12/11/content_1383562.htm).

<sup>18</sup> Online information viewed at: [http://news.xinhuanet.com/legal/2008-12/12/content\\_10494653.htm](http://news.xinhuanet.com/legal/2008-12/12/content_10494653.htm).

<sup>19</sup> Yang (2002), p. 333; and OECD (2010c), p. 220.

<sup>20</sup> OECD (2010c), p. 222.

<sup>21</sup> WTO (2006), pp. 34-37.

20. Provincial protectionism may result in barriers to internal trade and investment.<sup>22</sup> Local governments are dependent on revenues produced by their local SOEs and on income generated from economic activities in their local area. On 28 August 2010, the State Council issued a Circular of Opinions on Promotion of Enterprises Restructuring through Mergers and Acquisitions (State Council Circular 2010/27), requiring local authorities to abolish local regulations that hinder cross-province investment activities, in particular cross-provincial mergers and acquisitions. The authorities also state that various programmes, such as reform of the system of transfer payments, have been introduced to reduce inter-provincial trade and investment barriers.

## **(2) DEVELOPMENT AND ADMINISTRATION OF TRADE POLICIES**

### **(i) Main trade laws**

21. China's main laws covering international trade include the Foreign Trade Law, the Customs Law, and the Regulations on Import and Export Tariffs, which contain the tariff schedules, as well as laws and regulations relating to standards, SPS, anti-dumping measures, countervailing and safeguard measures, and intellectual property rights. During the period under review, various trade-related laws, regulations and departmental rules have been adopted or amended covering, *inter alia*, border measures, taxation, competition, and intellectual property protection (Table AII.1); China also abolished a number of trade-related administrative regulations and rules.<sup>23</sup>

### **(ii) Trade policy objectives**

22. China's overall trade policy objective has remained largely unchanged since 2010: to accelerate its opening to the outside world (with a view to introducing foreign technology and know-how); develop foreign trade; and promote sound economic development. Within this overall trade policy objective, the 12<sup>th</sup> Five-Year Plan (covering 2011-15) places emphasis on exports and inward foreign investment but also on imports and outward foreign investment.<sup>24</sup> In this context, China aims to stabilize exports, expand imports, and thus reduce the trade surplus.<sup>25</sup> The authorities intend to achieve this objective through import facilitation measures, as well as further preferential trading agreements.

### **(iii) Agencies involved in trade policy formulation and implementation**

23. Agencies involved in China's trade policy formulation remained unchanged during the review period.<sup>26</sup> The Ministry of Commerce (MOFCOM) has main responsibility for policy coordination

<sup>22</sup> For a more detailed explanation, see WTO (2006), Box II.2, p. 41.

<sup>23</sup> These include: the Regulation on Administration of Financial Institutions' Trading Spot and Forward Foreign Exchange on Behalf of Clients (promulgated by SAFE on 5 March 1988); the Administration Measures on Foreign Exchanges for Overseas Investments (promulgated by SAFE on 6 March 1989); the Administration Measures on Overseas Financial Institutions (PBC Decree 1990/1); the Interim Measures for the Quota Administration of Import Tariff on Agricultural Products; the Rules on Collection of Fees for International Vehicle Transport of Containers; the Interim Measures for Administration of Highway and Waterway Infrastructure Projects with Foreign Loans; the Interim Measures for Supervision of Exchange Payment and Writing-off for Import Trade; and the Measures for Administration of Agencies for Application of Safety and Quality Licenses for Imported Commodities.

<sup>24</sup> The 12<sup>th</sup> Five-Year Plan, Part XII.

<sup>25</sup> Minister Chen Deming answered journalists' questions at a press conference during the 11<sup>th</sup> National Congress, 7 March 2011. Transcripts viewed at: <http://www.gov.cn/2011lh/zhibo/20110307a.htm> [25 May 2011].

<sup>26</sup> WTO (2010), p. 14.

and implementation of all trade-related issues. Also involved in trade policy formulation and implementation are, *inter alia*, the ministries of Agriculture; Environmental Protection; Finance; Industry and Information Technology; Land and Resources; and Transportation, as well as the National Development and Reform Commission (NDRC), which is in charge of overall national economic and social development policy.

24. Several industry associations also collect and share information, identify and deal with problems related to industries, discuss trade policy issues that affect their industries, and represent the interest of their sectors in relation to the Government.<sup>27</sup>

### **(3) TRADE AGREEMENTS AND ARRANGEMENTS**

#### **(i) Participation in the World Trade Organization**

25. China became a WTO Member on 11 December 2001. It is not a signatory to the plurilateral Agreement on Government Procurement (GPA); it submitted a revised offer to join the GPA in December 2011. It is an observer to the Agreement on Trade in Civil Aircraft. China is a participant in the Agreement on Information Technology (ITA); it is not a party to the Pharmaceutical Agreement.

26. The authorities consider that the completion of Doha Round negotiations is important to support the multilateral trading system, and that "only after the Doha Round is completed will Members be confident to engage in in-depth discussions on new issues of the 21<sup>st</sup> century".<sup>28</sup> China emphasizes the importance of respecting the development mandate and the progress made so far.

27. China has submitted a number of notifications during the period under review, including notifications on agriculture, services, technical regulations, regional trade agreements, and intellectual property legislation (Table AII.2). A total of 482 notifications were registered during January 2010 to February 2012, including a new notification on subsidies adopted for 2005-2008. Nonetheless, in some areas (e.g. state trading), notifications are considerably outdated or overdue.

28. In the WTO Dispute Settlement Mechanism, China was involved in 6 cases as a complainant<sup>29</sup>, and 12 as a respondent between 2010 and 2011.<sup>30</sup> In addition, China participated as a third party in 24 disputes during the period under review.<sup>31</sup>

#### **(ii) Regional arrangements**

29. China was a latecomer to regional trade agreements but has become an active participant. It has also enlarged the geographic scope of its agreements. Its earliest agreements were signed with its

---

<sup>27</sup> For a list of China's industries associations and chambers of commerce, see MOFCOM online information. Viewed at: <http://english.mofcom.gov.cn/chamberofcomm.shtml>.

<sup>28</sup> WTO document WT/MIN(11)/ST/106: Statement by China's Minister of Commerce at the WTO Ministerial Conference, Eighth Session, Geneva, 15-17 December 2011.

<sup>29</sup> WT/DS379, WT/DS392, WT/DS397, WT/DS399, WT/DS405 and WT/DS422.

<sup>30</sup> WT/DS387, WT/DS388, WT/DS390, WT/DS394, WT/DS395, WT/DS398, WT/DS407, WT/DS413, WT/DS414, WT/DS419, WT/DS425, and WT/DS427. The authorities note that disputes regarding WT/DS387, WT/DS388, and WT/DS390 were settled bilaterally.

<sup>31</sup> WT/DS353, WT/DS369, WT/DS371, WT/DS375, WT/DS376, WT/DS377, WT/DS381, WT/DS384, WT/DS386, WT/DS389, WT/DS391, WT/DS396, WT/DS400, WT/DS401, WT/DS402, WT/DS403, WT/DS404, WT/DS412, WT/DS415, WT/DS416, WT/DS417, WT/DS418, WT/DS421, and WT/DS423.

neighbours (Hong Kong, China; Macao, China; ASEAN; and the Asia Pacific Trade Agreement). It has since moved further afield, negotiating agreements with New Zealand, Chile, Peru, and most recently Costa Rica. Its current negotiations also confirm this broader search for RTA partners (including with the EFTA states, the GCC, India, the Republic of Korea, and SACU). The structure of its agreements has changed, and become deeper over time, as the more recent agreements include commitments in services. As stated in its 12<sup>th</sup> Five-Year Plan, China intends to accelerate the implementation of the Free Trade Area Strategy, strengthen economic linkages with major trading partners, and deepen cooperation with emerging markets and developing countries.

30. The authorities consider that regional trade agreements serve as a complement to the multilateral trading system while China pursues its opening-up policy; in regard to free-trade agreements (FTAs)/regional trade agreements (RTAs), China maintains that it follows the principle of inclusiveness and openness. While in general, the agreements notified by China to the WTO especially under Article XXIV of the GATT 1994 have relatively high tariff line and bilateral import coverage, this is not the case for all its agreements. In its agreements with Chile, Peru, and New Zealand, China commits to eliminate duties on 94.6% to 97.2% of its tariffs, corresponding to 88% to 99.1% of its bilateral imports from these trading partners; however, duties on only 35.4% of its tariffs will be eliminated in the agreement with Pakistan, corresponding to 44.4% of China's imports from Pakistan. That Pakistan has also committed to relatively low levels of tariff elimination in the agreement suggests that China's commitments to eliminate tariffs in its RTAs are based on reciprocity rather than a general policy of openness in its RTAs.

31. China has notified to the WTO its involvement in 11 FTAs/RTAs (Table AII.3).

32. China has concluded two new FTAs since 2009, i.e. the free-trade agreement with Costa Rica (signed April 2010, entered into force August 2011), and the Cross-Straits Economic Cooperation Framework Agreement (ECFA) with Chinese Taipei (signed June 2010, entered into force September 2010). The two agreements were the object of early announcements to the WTO.

33. In addition, China has signed China-ASEAN FTA complementary agreements: the memorandum on strengthening cooperation in standards, technical regulations, and conformity assessment (25 October 2009); the memorandum of understanding on the cooperation in the field of intellectual property (21 December 2009); the agreement on investment (15 August 2009); and the second protocol to amend the agreement on trade in goods (29 October 2010).

34. China has signed supplementary agreements to the Closer Economic Partnership Arrangement between Hong Kong and the Mainland (Hong Kong CEPA) and between Macao and the Mainland (Macao CEPA). Supplementary Agreement VI to Hong Kong CEPA (signed 9 May 2009, effective 1 January 2010); Supplementary Agreement VII to Hong Kong CEPA (signed 27 May 2010, effective 1 January 2011); and Supplementary Agreement VIII to Hong Kong CEPA (signed 13 December 2011, effective 1 April 2012); Supplementary Agreement VI to Macao CEPA (signed 11 May 2009, effective 1 January 2010); Supplementary Agreement VII to Macao CEPA (signed 28 May 2010, effective 1 January 2011); and Supplementary Agreement VIII to Macao CEPA (signed 17 December 2011, effective 1 April 2012).

35. China is pursuing negotiations or undertaking joint-studies on possible RTAs/FTAs with: Australia; Norway; Switzerland; Iceland; the Gulf Co-operation Council (GCC); India; the Republic of Korea; SACU (individually); and the Republic of Korea and Japan (for a future tripartite agreement).

36. China has been a member of APEC since 1991. In 2011, 64.3% of China's merchandise imports were from APEC members, and 61.3% of its merchandise exports went to them. China has been a member of ASEM since 1996.

**(iii) Unilateral preferences**

37. As of 1 January 2011, unilateral preferential tariffs on 60% of products (in terms of national tariff lines) were offered to 36 least developed countries (LDCs).<sup>32</sup> On 1 January 2012, Niger and Somalia were offered similar treatment.<sup>33</sup> According to the authorities, about 90% of tariffs (in terms of national tariff lines) on imports from Lao PDR, Cambodia, and Myanmar have been eliminated unilaterally since 1 January 2010 under the China-ASEAN FTA framework.<sup>34</sup> During the Eighth WTO Ministerial Conference, China indicated that it would reduce tariffs to zero on 97% of imports (in terms of national tariff lines) from LDCs that have diplomatic ties with China.<sup>35</sup>

**(4) FOREIGN INVESTMENT REGIME**

**(i) Recent developments in FDI policy**

38. In 2010 (the latest year for which data are available), China was the world's third largest recipient of FDI after the EU and the United States.<sup>36</sup> China has been "encouraging" inward FDI, mainly in manufacturing, with particular emphasis on high-value-added production and new technology, and in certain services such as telecommunications, tourism, "modern" logistics, and service outsourcing. On 1 January 2008, China eliminated preferential treatment to FDI projects in regard to the enterprise income tax, except for some "grandfathering" of incentives during a five-year transition period. Since 1 December 2010, foreign enterprises pay urban maintenance and construction tax and education levies at the same rates as domestic enterprises.<sup>37</sup>

39. Since 1 January 2011, foreign investors have been "permitted" to invest in health care services in China on a pilot-project basis; previously, they were listed in the "restricted" category.<sup>38</sup>

<sup>32</sup> Online information. Viewed at: [http://www.gov.cn/zwqk/2010-06/24/content\\_1635985.htm](http://www.gov.cn/zwqk/2010-06/24/content_1635985.htm).

<sup>33</sup> Tariffs on some imports from Niger and Somalia were already zero-rated.

<sup>34</sup> An FTA between China and "old members" of ASEAN, i.e. Brunei, Indonesia, Malaysia, Philippines, Singapore, and Thailand was fully implemented on 1 January 2010, whereas the FTA between China and "newer members", i.e. Cambodia, Lao PDR, Myanmar, and Viet Nam is to be fully implemented on 1 January 2015 (WTO document WT/COMTD/51, 21 December 2004).

<sup>35</sup> WTO document WT/MIN(11)/ST/106: Statement by China's Minister of Commerce at the WTO Ministerial Conference, Eighth Session, Geneva, 15-17 December 2011.

<sup>36</sup> UNCTAD (2011).

<sup>37</sup> State Council Circular on Unifying the Urban Maintenance & Construction Tax, and Education Levies between Domestic and Foreign Enterprises (State Council Circular 2010/35, 18 October 2010).

<sup>38</sup> The General Office of the State Council Circular on Several Opinions on Further Encouraging and Guiding Social Capital to Invest in Healthcare Sector, 26 November 2010, "encourages" foreign investment to establish joint-venture healthcare institutions (either equity or contractual), and the equity share ceiling is to be removed gradually. A pilot programme of wholly foreign-owned healthcare institutions is being carried out. As of 1 January 2011, healthcare service providers from the Hong Kong SAR and the Macao SAR have been allowed to set up wholly owned hospitals in Shanghai, Chongqing, Guangdong, Fujian, and Hainan, and wholly owned care homes in Guangdong. Service providers from Chinese Taipei have been allowed to set up wholly owned hospitals in Shanghai, Jiangsu, Guangdong, Fujian, and Hainan. Foreign-invested healthcare institutions may set up as profitable or non-profit organizations.

40. A revised *Catalogue for the Guidance of Foreign Investment Industries* (2011 version), which entered into force on 30 January 2012, added 44 subsectors and projects (e.g. services for intellectual property right protection, services of marine oil pollution clean-up technology, and new-energy automobiles) to the "encouraged" category, whereas 41 subsectors and projects (e.g. manufacturing of complete automobiles, and of polysilicon) were removed from the "encouraged" category. The authorities noted that the foreign equity share ceiling for 11 subsectors in the "encouraged" and "restricted" categories were also removed on 30 January 2012.

41. Since 6 April 2010, the Government has encouraged foreign-invested enterprises (FIEs) in joint ventures with Chinese enterprises or research institutes to participate in government-funded projects under the "national technology development programme" and the "innovation capacity-building programme".<sup>39</sup> The national technology development programme and the innovation capacity-building programme are subsidy programmes managed by NDRC with the aim of promoting innovation. The programmes are open to enterprises and research institutes. Upon approval of projects put forward by enterprises, NDRC grants subsidies that partially cover the cost of innovation activities. Since 31 August 2010, some manufacturing subsectors (e.g. textiles and apparel, toys, and domestic appliances) and banking services in the central and western regions have been classified as "encouraged", in accordance with the State Council's Guiding Opinions on Central and Western Regions' Receipt of Industrial Transfers.<sup>40</sup> This reclassification will be reflected in the next revision of the Catalogue of Advantaged Industries for Foreign Investment in Central-Western China.

42. The Government intends to increase decentralization and simplify verification procedures for foreign investment. Since 4 May 2010, provincial authorities have been delegated to approve certain FDI projects below US\$300 million (previously US\$100 million).<sup>41</sup> Since 14 February 2011, outward FDI below US\$300 million in natural resources, and below US\$100 million in non-natural resources may be approved by the authorities at the provincial level, except, *inter alia*, for projects on basic telecom network operation, cross-border hydro power development, large-scale agricultural development, major power grid, and news media. Previously, all outward FDI projects had to be verified and approved by the NDRC, in accordance with the Interim Measures for Administration on Examination and Approval of Overseas Investment Projects.

43. With a view to clarifying the procedures and scope of anti-trust reviews and national security reviews on M&A activities involving FDI, detailed measures for national security reviews over foreign mergers and acquisitions<sup>42</sup>, and a guideline for impact assessment of anti-trust reviews<sup>43</sup>, entered into force in September 2011.

## (ii) Regulatory framework

44. Main laws and regulations specifically related to FDI in China remained unchanged during the period under review. They include: the Law on Chinese-Foreign Equity Joint Ventures, the Law on Chinese-Foreign Contractual Joint Ventures, the Law on Foreign-Capital Enterprises, and the Law on Partnership Enterprises, and their implementing regulations. Under these laws, FIEs include

<sup>39</sup> Certain Opinions on Further Improving the Use of Foreign Capital (State Council's Circular 2010/9).

<sup>40</sup> State Council Circular 2010/28, 31 August 2010.

<sup>41</sup> See Certain Opinions on Further Improving the Use of Foreign Capital (State Council Circular 2010/9).

<sup>42</sup> MOFCOM Provisions on National Security Review over Acquisitions of Domestic Enterprises by Foreign Investors, 1 September 2011.

<sup>43</sup> The Interim Provisions on the Assessment of the Impact of Concentration of Undertakings on Competition, 5 September 2011.

equity joint ventures (with foreign investment no less than 25% of registered capital), contractual joint ventures and wholly foreign-owned enterprises, participation in partnership enterprises<sup>44</sup>, and mergers and acquisitions of Chinese domestic enterprises. The authorities noted that foreign investors may also be allowed to own some shares in state-controlled enterprises in certain sectors.<sup>45</sup>

45. The Provisions on Guiding Foreign Investment Direction classify foreign investment projects into four categories: encouraged, permitted, restricted, and prohibited.<sup>46</sup> The current *Catalogue for the Guidance of Foreign Investment Industries*, which entered into force on 30 January 2012, lists industries that are encouraged, restricted, and prohibited<sup>47</sup>; projects that do not fall into these three groups are "permitted".

46. The authorities intend to promote FDI in the central-western region of China. To this purpose, all sectors listed in the Catalogue of Advantaged Industries for Foreign Investment in Central-Western China are "encouraged"; thus, preferential policies towards "encouraged" sectors are applied to all sectors, notably labour-intensive sectors, in this catalogue. Tax incentives are in place for FDIs investing in the central-western region.<sup>48</sup> The current Catalogue entered into force on 1 January 2009. Processing trade in central-western region is also encouraged by special customs supervision zones or bonded warehousing.<sup>49</sup>

47. In general, projects in the encouraged category are those that use improved technology and are less polluting<sup>50</sup>, while "restricted", and "prohibited" projects employ outdated technologies, over-exploit scarce natural resources, and tend to harm the environment. Foreign equity limits tend to be intricate and vary by industry, and are not necessarily related to the category.

---

<sup>44</sup> Detailed regulations are contained in Measures of Management of Partnership Enterprises Established by Foreign Investors within the Territory of China, State Council Decree 567, effective 1 March 2010.

<sup>45</sup> State-controlled enterprises are enterprises in which the State, or another state-owned enterprise (SOE), holds more than 50% of equity; or, if the equity share is less than 50%, the State or another SOE has controlling influence on its management and operation.

<sup>46</sup> Provisions on Guiding Foreign Investment Direction. Viewed at: [http://english.gov.cn/laws/2005-07/25/content\\_16873.htm](http://english.gov.cn/laws/2005-07/25/content_16873.htm) [11 February 2008].

<sup>47</sup> The *Catalogue for the Guidance of Foreign Investment Industries* is formulated based on the *Catalogue of Guiding Industry Structure Adjustment*. The latest version of the latter entered into force on 1 June 2011.

<sup>48</sup> Certain Opinions on Further Improving the Use of Foreign Capital (State Council Circular 2010/9), Section 2, Point 8 and Point 9.

<sup>49</sup> See the State Council's Guiding Opinions on Central and Western Regions' Receipt of Industrial Transfers (State Council Circular 2010/28, 31 August 2010).

<sup>50</sup> Encouraged industries include: projects to develop new agriculture technologies and agriculture, or to develop energy, transportation or important raw material industries; those for high and new technologies, or advanced application of technologies to improve product quality, increase technology efficiency, or produce new equipment or new materials that cannot be produced domestically; those helping to meet domestic and export market demand; those adopting new technology or equipment for saving energy and raw materials; and those making full use of human and natural resources in central and western parts of China. Restricted industries include: those that use outdated technology, or do not favour resource-conservation and the environment; those using resources protected by law or regulations; and "industries that shall be opened gradually". Prohibited industries include: those that endanger the safety of the State or damage social and public interests; those that pollute the environment, destroy natural resources or impair human health; those that occupy large amounts of arable land, or are unfavourable to protection and development of land resources; those that endanger the safety of military facilities and their performance; and those that use Chinese craftsmanship or technology to make products.



48. FIEs in the encouraged category may import capital equipment duty free. All foreign-invested enterprises may enlarge their scope of business, subject to approval. Foreign investment in the restricted category may be permitted, subject to approval, if export sales are over 70% of total sales of the product.<sup>51</sup>

**(iii) Examination and approval procedure**

49. FDI in "important or restricted" projects<sup>52</sup> requires verification by the authorities, as stipulated in the Decision on Reforming the Investment System and the Catalogue of Investment Projects Requiring Government Verification (issued by the State Council), which includes non-government-funded, important or restricted fixed-asset investment projects, in several industries or sectors.<sup>53</sup> All other investment projects, irrespective of the amount of investment, need to be registered only with the relevant authorities, such as the local development and reform commissions (DRCs).

50. The main regulations for FDI in "important or restricted" projects, the Interim Measures for the Administration of Examining and Verifying Foreign Investment Projects, based on the Decision and on the Administrative Permission Law, stipulate examination and approval procedures for FDI in China.<sup>54</sup> To establish an FIE in such projects, applications must be submitted for examination and verification to the NDRC, or to other government agencies, such as the local DRCs.

51. Projects valued at US\$300 million or more (for FDI projects approved as of 4 May 2010 and after, compared with US\$100 million previously) for encouraged and permitted sectors (US\$50 million for restricted industries) must be verified by the NDRC or other relevant agencies (e.g. industry regulators) at the national level; projects below these thresholds may be verified and approved by local DRCs.<sup>55</sup> Applications for permitted and encouraged industries valued at over US\$500 million (US\$100 million for restricted industries), after examination by the NDRC, are submitted for verification to the State Council. The NDRC must complete its examination and verification within 20 working days after accepting the application; this may be extended by 10 working days if it is difficult to reach a decision (the project applicant is informed of the delay). The NDRC examines and verifies FDI applications against, *inter alia*, the following provisions: relevant laws and regulations; the *Catalogue for the Guidance of Foreign Investment Industries*; the *Catalogue of Advantaged Industries for Foreign Investment in Central-Western China*; the medium-and long-term development plan for national economy and society (the five-year plans); policies related to industry planning and restructuring; public interests and competition provisions;

---

<sup>51</sup> The authorities note that this is not common.

<sup>52</sup> The authorities note that these restricted sectors are listed in the restricted category in the *Catalogue of Guiding Industry Structure Adjustment* and the *Catalogue for the Guidance of Foreign Investment Industries*.

<sup>53</sup> These include: agriculture and forestry; energy; transportation; information technology; raw materials; manufacturing; light industry and tobacco; high and new technology; urban infrastructure; social projects (including tourism), and financial services.

<sup>54</sup> These measures apply to Chinese-foreign contractual joint ventures, Chinese-foreign equity joint ventures, wholly foreign-owned enterprises, mergers between enterprises, acquisitions of domestic enterprises by foreign investors, and increases in capital of foreign-owned enterprises.

<sup>55</sup> The power to verify restricted industries may not be delegated to a department below provincial DRC level. For projects of more than US\$30 million involving FDI, local governments must submit a copy of the examination and verification document to the NDRC within 20 working days.

land-use planning, city planning, and environment protection policies; national standards; and rules on capital account management and foreign debt management.<sup>56</sup>

52. In addition, FIEs (excluding in the financial sector) seeking to establish in China must submit an application simultaneously to MOFCOM or local commercial departments<sup>57</sup>, for an FIE Approval Certificate. This allows the FIE to complete all the other procedures necessary to commence operations, such as registration of the enterprise.

53. Foreign investment in China can be made in renminbi (RMB). Except for investments valued at ¥300 million or more or in industries that require approval from MOFCOM, the authorities at the provincial level may complete the approval procedure similar to that for investment in foreign currencies. Foreign investments with RMB are not allowed "directly or indirectly" in equities and financial derivatives, except those used for strategic investment in listed companies.

54. The authorities state that there are no restrictions on lending by domestic banks to foreign-invested enterprises.

55. FDI in the form of mergers and acquisitions (M&As) of enterprises is subject to anti-trust reviews, as per the Anti-Monopoly Law.<sup>58</sup> Anti-trust reviews are intended to assess the influences on market competition of M&A operations. In addition to anti-trust reviews, FDI involving M&A with Chinese domestic enterprises is subject to national security reviews, if the FDI is related to defence, or is deemed to have influence on national security, such as controlling firms engaged in key commodities (e.g. agriculture, energy, and natural resources), key infrastructures, key transports, and key equipment manufacturing with essential technologies. Anti-trust reviews and national security reviews are to be completed within a defined time-frame (Chapter III(3)(vi)). In the period 2008-2011, MOFCOM reviewed 382 cases, of which 371 were unconditionally cleared, 10 were cleared subject to conditions, and 1 case was rejected.<sup>59</sup>

56. The Government encourages the development of foreign-invested high-tech enterprises<sup>60</sup>, as well as R&D cooperation between domestic and foreign enterprises. It supports eligible

---

<sup>56</sup> Provisions in the Interim Measures for the Administration of Verification and Authorization of Foreign Investment Project (NDRC decree No. 2004/22), entered into force on 9 October 2004.

<sup>57</sup> Projects valued at US\$300 million or more in the encouraged or permitted sectors (and US\$50 million for restricted industries) are approved by MOFCOM. Projects valued below the threshold are approved by the commercial departments at the provincial level (since 10 June 2010).

<sup>58</sup> Administrative regulations with regard to FDI involving M&As include: the Provision on Mergers and Acquisition of Domestic Enterprises by Foreign Investors; Measures on the Examination of Concentration of Undertakings; Measures on the Notification of Concentration of Undertakings (entered into force in January 2010); and Provisions on National Security Review over Acquisitions of Domestic Enterprises by Foreign Investors (entered into force on 1 September 2011).

<sup>59</sup> The M&A case rejected by MOFCOM concerned an application by Coca Cola to merge with Hui Yuan. For details see MOFCOM Announcement 2009/22 (in Chinese). Viewed at: <http://fldj.mofcom.gov.cn/aarticle/ztxx/200903/20090306108494.html>.

<sup>60</sup> Authentic high-tech enterprises may be granted preferential tax treatment, such as enterprise income tax exemption or reduction, within the validity of high-tech enterprise status. Any enterprise registered in China for longer than one year may apply for authentication as a high-tech enterprise; the status of high-tech enterprise is valid for three years, and may be renewed. Six conditions must be met including, products (or services) supplied by the enterprises must be on the list of High-Tech Fields with Essential Support by the State; and the authentic high-tech enterprises must possess "self-owned" intellectual property rights over the "core technology" acquired through in-house R&D, transfer or gift, M&A operation, or exclusive licence for more than 5 years.

foreign-invested enterprises, jointly with domestic enterprises and research institutes, to apply for government funded/sponsored R&D projects, innovation capacity-building projects, and authentication of national technology centres. The authorities maintain that there are no mandatory requirements for technology transfer associated with FDI approval. Eligible foreign-invested R&D centres were exempted from duties, value-added tax, and consumption tax on imported inputs needed for R&D consumables before 31 December 2010. Nonetheless, concerns have been raised about *de facto* technology transfer requirements on foreign investment projects, e.g. in the new-energy automotive sector.<sup>61</sup> The authorities maintain that China currently has no measures that impose technology transfer requirements; preferences may be accorded to innovators depending on whether the relevant technology is domestically owned or licensed by foreign investors. China plans to conduct studies between 2012 and 2013 on whether to continue these measures.

57. The State Council supports FIEs to be listed, and/or to issue corporate bonds on Chinese market. It also continues to "guide" financial institutions to enhance credit supports to FIEs. At the time of this review, details of measures were not available to the Secretariat.

**(iv) Bilateral investment treaties**

58. China had signed 131 bilateral investment agreements by the end of December 2011.<sup>62</sup> Between 2010 and 2011, China concluded bilateral investment agreements with Chad, Libya, Uzbekistan, and Congo (DRC).<sup>63</sup>

---

<sup>61</sup> WTO documents G/L/977, 16 November 2011; and IP/C/60, 17 November 2011.

<sup>62</sup> UNCTAD International Investment Agreement Database. Viewed at: <http://www.unctad.org/Templates/Page.asp?intItemID=2339&lang=1> [01.12.2011].

<sup>63</sup> Investment treaties with France and Switzerland entered into force in 2010. The three newly concluded investment treaties have not yet entered into force.

### III. TRADE POLICIES AND PRACTICES BY MEASURE

#### (1) MEASURES DIRECTLY AFFECTING IMPORTS

##### (i) Customs procedures, valuation, and rules of origin

###### (a) Customs procedures

1. China's main legislation and procedures on customs clearance has remained unchanged since its previous Review in 2010.<sup>1</sup> Customs is in charge of administering and enforcing customs legislation. Under the Foreign Trade Law and the Rules for the Registration of Foreign Trade Operators, individuals as well as legal persons and other organizations need to be registered as "foreign trade operators" with the Ministry of Commerce (MOFCOM) or its authorized bodies as well as with Customs before filing customs declarations.

2. Import (and export) declarations may be made in paper or electronic form, and may be made either by consignors and consignees of import cargoes who are registered with Customs or by customs brokers. At the time of customs declaration, importers must meet the requirements of Customs and the General Administration of Quality Supervision, Inspection, and Quarantine (AQSIQ).

3. Customs duty must be paid at a designated bank within 15 days of the memorandum of duty payment being issued by Customs.<sup>2</sup> Customs collects the following administrative charges: handling charges for customs supervision, registration fees of customs intellectual property protection<sup>3</sup>, charges for ATA (Admission Temporaire/Temporary Admission) document adjustment, and storage charges for goods and luggage, in accordance with relevant regulations.

4. Consultations with the private sector (domestic or foreign) on matters related to customs procedures are conducted through direct communications with private enterprises and various chambers of commerce, and through public hearings; information on customs procedures are available through notices, publications, official websites, and enquiry points.

5. Importers may request advance written rulings from Customs; the rulings are binding. The legal basis of the advance written rulings from Customs is the Customs Law and the Interim Measures on the Administration of the Administrative Rulings of Customs.<sup>4</sup>

---

<sup>1</sup> The main laws, regulations, and rules on customs procedures include: the Customs Law; the Interim Measures for Administration of the Administrative Rulings of the Customs; the Rules of the Customs on Administration of the Levying of Duties on Imports and Exports (GAC Decree No. 124); the Regulations on Origin of Imported and Exported Goods (State Council Decree No. 416); and the Provisions of the Customs on Administration of the Commodity Classification of Import and Export Goods (GAC Decree No.158). During the period under review, administrative Customs announcements entered into force on, *inter alia*, customs procedures regarding certain solid waste, parcels, and classified clearance.

<sup>2</sup> In case of a delay in payment, a fine of 0.05% of the total amount of duty payable is charged. If the duty is not paid within three months, Customs may take measures under Article 60 of the Customs Law, including notification to the importer's bank to deduct the amount due directly from the account, and to sell the dutiable goods and/or other goods belonging to the importer in order to raise the amount due. The time-limit for payment of duty may be extended by Customs to a maximum of six months if duty cannot be paid due to, for example, force majeure or adjustments to the taxation policy.

<sup>3</sup> Registration fees are intended to bear customs costs related to the protection of relevant specific intellectual property.

<sup>4</sup> Order of the General Administration of Customs, No. 92.

6. In 2010, the average time required for customs clearance was 1.7 hours for exports (2.4 hours in 2008) and 15.5 hours for imports (14.1 hours in 2008).

7. China has adopted a "single window" project, which is intended to realize data sharing for customs clearance, including data exchange concerning cross-border RMB settlement, and on-line audit. Currently, 13 departments under the State Council, the Trade and Industry Department of the Hong Kong SAR, the Economic Services of the Macao SAR, and 15 commercial banks are connected by an electronic platform. Customs has also promoted cooperation with the customs authorities in China's FTA partners, mainly in electronic networking with regard to preferential certificates of origin, and customs data exchange system, with the European and the Russian Customs, respectively.

8. Under the "regional customs transit system", goods authorized by Customs may be transported within China as bonded goods; importers submit customs declarations only at the place where they are registered, and not at the port of entry.

9. Under the Administrative Reconsideration Law, administrative decisions made by Customs may be appealed, either to a higher authority within Customs, or to a People's Court. The Provisional Regulations on Processing Customs Appeals stipulate that Customs must give its decision within 60 days after the appeal for administrative review is filed (with a possible extension of 30 days). Customs accepted 393 appeals for administrative review in 2009 and 289 in 2010; and the courts accepted 25 administrative lawsuits disagreeing with the Customs' specific administrative acts in 2009 and 27 in 2010.

(b) Preshipment inspection

10. China's preshipment inspection (PSI) requirements have remained unchanged since 2010. The requirements, which are defined in the revised Implementing Regulations of the Law on Import and Export Commodity Inspection, are intended to: protect public health; improve the phytosanitary situation; protect the environment; and prevent counterfeit goods from entering the country.<sup>5</sup> PSI requirements have not been notified to the WTO.

11. Under Article 22 of the Regulations, PSI is required on imports of waste raw materials and used machinery and electrical products.<sup>6</sup> China has designated some foreign institutions to conduct PSI and to issue certificates in this regard<sup>7</sup>; the current list of designated foreign institutions was not made available to the Secretariat. Preshipment inspection of waste raw materials and of used material and electronic products is carried out mainly by inspection bodies abroad; for large-scale sets of equipment where technical support is deemed necessary, the Chinese Government may send inspection and quarantine personnel abroad, upon the request of foreign inspection bodies, to provide technical guidance and consultancy.<sup>8</sup> PSI is also required for imports of certain commodities related to national security, with high value or complicated technology; and equipment exceeding certain height, length or volume.

<sup>5</sup> The Regulations entered into force on 1 December 2005.

<sup>6</sup> WTO document WT/TPR/M/230/Add.1, 22 February 2011, p. 184. Relevant provisions also include: Article 29 of the Rules on Administration and Supervision of Inspection and Quarantine on Solid Waste Imported as Usable Raw Materials (AQSIQ Decree No. 119), Rules on Administration of Inspection and Supervision of Import of Used Machinery and Electrical Products (AQSIQ Decree No. 37), and Rules on the Inspection and Supervision Procedures for Import of Used machinery and Electrical Products (AQSIQ Decree No. 53). WTO document G/TBT/N/CHN/649, 19 June 2009.

<sup>7</sup> WTO document WT/TPR/M/230/Add.1, 22 February 2011, p. 168.

<sup>8</sup> WTO document WT/TPR/M/230/Add.1, 22 February 2011, p. 208.

(c) Customs valuation

12. China's customs valuation regime is regulated by provisions in the Rules Regarding Determination on Customs Value of Imported and Exported Goods (General Administration of Customs, Decree No. 148, 2006). Customs value is determined on the basis of transaction value, which includes the costs of transport (freight charges) and insurance and other related charges.<sup>9</sup> Where it is not possible to determine the transaction value, the customs value is based on (in sequential order): the transaction value of identical goods; the transaction value of similar goods; the deductive value; the computed value; and the value determined on a "reasonable" basis. Data provided by the authorities indicate that in 2011, customs value for more than 99% of China's imports was determined on the basis of transaction value.

(d) Rules of origin

13. China applies non-preferential and preferential rules of origin. Non-preferential rules of origin are applied in accordance with the Regulations on Rules of Origin of Import and Export Commodities<sup>10</sup>; they are intended to serve as a basis for applying MFN rates. Under Article 3 of the Regulations, for goods produced or manufactured wholly within one country or region, origin is defined as that country or region; for goods produced in two or more countries or regions, the place of origin is the country or region where substantial transformation has been made and finalized.<sup>11</sup>

14. On 2 June 2011, China revised the rules of origin for products under HS 8412 (certain engines and motors) and HS 9026 (e.g. instruments and apparatus for measuring the flow level liquids) from "change of tariff classification" to "change of tariff classification or *ad valorem* percentage of 30%".

15. Preferential rules of origin are applied in accordance with the various regional and bilateral trade agreements currently in force between China and its trading partners (Table AIII.1), and to certain imports from LDCs. Since its previous Review in 2010, a free-trade agreement between China and Costa Rica has entered into force (1 August 2011). Preferential rules of origin tend to vary from agreement to agreement, and sometimes across product groups, which add to the complexity of China's import regime.

16. In 2010, China conducted overseas checks on 1,229 certificates of origin under free-trade arrangements. Feedback so far showed that 8 of those certificates were false; they involved mainly fish products.

---

<sup>9</sup> Customs online information (in Chinese). Viewed at: <http://www.customs.gov.cn/publish/portal0/tab38320/info22193.htm>. See also WTO document G/VAL/N/1/CHN/5, 11 April 2008. When freight charges cannot be determined, they are calculated by Customs on the basis of actual transportation costs of the imports or the freight rate or amount published by the transport industry at the time of import. Insurance premiums that cannot be determined are calculated by Customs on the basis of 3% of the sum of the import price and freight charges.

<sup>10</sup> State Council Decree No. 416, 2004.

<sup>11</sup> Substantial transformation is defined either as a change in the tariff heading of the good according to China's tariff classification, or where the value added is no less than 30% of the total value of the product. WTO document G/RO/53, 1 August 2002.

**(ii) Tariffs<sup>12</sup>****(a) Overview**

17. According to China's national budget, in 2011, tariff revenue accounted for 2.7% of total tax revenue, down from 2.8% in 2010.

18. The Customs Tariff Commission of the State Council is empowered by the Regulations on Import and Export Tariff to set "interim" tariff rates, which are implemented on specific products for a specified period (usually for one year).<sup>13</sup>

19. China provides at least MFN treatment for all WTO Members except El Salvador and some territories of EU Member states.<sup>14</sup>

20. While the authorities state that they do not collect data on the share of China's imports subject to different tariff rates (i.e. MFN rates and non-MFN rates), according to the UN COMTRADE database, most of China's imports appear to be subject to MFN or more favourable rates.<sup>15</sup>

21. China is a party to the Information Technology Agreement (ITA). In accordance with the ITA, China eliminated tariffs on all ITA products on 1 January 2005.

**(b) MFN tariff rates***Bound MFN tariff rates*

22. All of China's tariff lines are bound at *ad valorem* rates. The applied MFN tariff rates are close to the bound rates, imparting a high degree of predictability to China's MFN tariff (Table III.1 and Chart III.1). Bound rates varied from zero to 65% for agricultural products, and from zero to 50% for non-agricultural products in 2011.

*Applied MFN tariff rates*

23. China's applied MFN tariff rates consist of "standard" applied MFN rates as well as "interim" MFN rates for certain products. The interim tariff effectively replaces the applied MFN tariff; interim rates are not higher than the corresponding standard applied MFN tariff rates.

---

<sup>12</sup> China's import tariff rates comprise MFN tariff rates, non-MFN tariff rates ("agreement" tariff rates, "special preferential" tariff rates, "general" tariff rates), and tariff-quota rates. For all these rates (apart from the "general" tariff rates), China's tariff is set by the Customs Tariff Commission of the State Council, an inter-ministerial body composed of, *inter alia*, the Ministry of Finance, Customs, MOFCOM, NDRC, and the State Council General Office in accordance with the Customs Law and the Regulations on Import and Export Tariff. The Customs Tariff Commission may set interim rates whenever it considers such rates necessary.

<sup>13</sup> Interim tariffs may be applied to imports for a specified period, in accordance with Article 3 of the Regulations on Import and Export Duties. The Customs Tariff Commission of the State Council is responsible for setting and adjusting interim tariffs; rates need to be approved by the State Council before their implementation. Where there are interim tariff rates on imported goods that are subject to applied MFN tariff rates, and rates are no higher than applied MFN tariff rates, the interim tariff rates apply; on imported goods subject to agreement tariff rates or special preferential tariff rates, the lower tariff rates apply; on imported goods subject to tariff-quota rates, the interim tariff rates apply.

<sup>14</sup> El Salvador notified that it does not apply the multilateral trade agreements between El Salvador and the People's Republic of China, in accordance with the Article XIII of the Marrakesh Agreement (WTO document WT/L/429, 7 November 2001).

<sup>15</sup> Exceptions are "general" rates (section (c) below).

**Table III.1**  
**China's tariff structure, 2007, 2009 and 2011**  
(%)

	MFN applied rate			Final bound rate <sup>a</sup>
	2007	2009	2011	
Bound tariff lines (% of all tariff lines)	100	100	100	100
Simple average rate <sup>b</sup>	9.7	9.5	9.5	9.9
Agricultural products (HS01-24)	14.5	14.5	14.5	14.6
Industrial products (HS25-97)	8.9	8.6	8.6	9.0
WTO agricultural products	15.2	15.2	15.1	15.3
WTO non-agricultural products	8.8	8.6	8.6	9.0
Duty-free tariff lines (% of all tariff lines)	8.7	9.4	9.4	7.5
Simple average rate of dutiable lines only	10.7	10.5	10.5	10.7
Tariff quotas (% of all tariff lines)	0.6	0.6	0.6	0.6
Non- <i>ad valorem</i> tariffs (% of all tariff lines)	0.7	0.7	0.7	0.0
Domestic tariff "peaks" (% of all tariff lines) <sup>c</sup>	2.4	2.1	2.2	2.4
International tariff "peaks" (% of all tariff lines) <sup>d</sup>	15.6	14.9	14.8	15.7
Overall standard deviation of tariff rates	7.5	7.5	7.5	7.5
Coefficient of variation of tariff rates	0.8	0.8	0.8	0.8
Nuisance applied rates (% of all tariff lines) <sup>e</sup>	2.7	2.7	2.7	2.6

a Final bound rates are based on the 2011 tariff schedule in HS07 nomenclature.

b The simple average not including interim rates is 9.8% for all three years.

c Domestic tariff peaks are defined as those exceeding three times the overall average applied rate.

d International tariff peaks are defined as those exceeding 15%.

e Nuisance rates are those greater than zero, but less than or equal to 2%.

Note: All three tariff schedules are based on HS07 nomenclature, consisting of 7,646, 7,868 and 7,977 tariff lines, respectively. Calculations are based on national tariff line level (8-digit); excluding in-quota rates and including AVEs for non-*ad valorem* rates provided by the authorities, as available. Interim duty rates are used for the calculations when fully applied at the 8-digit level.

Source: WTO Secretariat calculations, based on data provided by the authorities of China.

24. In 2010, duty rates (including interim rates) were reduced on, *inter alia*, fresh strawberries, fermented beverages, woven fabrics of synthetic staple fibres, hides and skins, and ethyl alcohol. Between 2010 and 2011, specific duty rates for photographic and cinematographic goods rose, while their *ad valorem* equivalents remained unchanged; import duty rates for, *inter alia*, aviation kerosene increased, as its interim duty rates increased.

25. In 2011, China's applied MFN tariff (including interim rates) consisted of 7,977 lines at the HS 2007 8-digit level (up from 7,868 lines in 2009)<sup>16</sup>; 7,925 lines (99.3%) were *ad valorem* rates. Unchanged since 2009, the 2011 applied MFN tariff contained 57 different *ad valorem* rates, ranging from zero to 65% (Chart III.2). Non-*ad valorem* rates applied to 52 tariff lines: 44 at specific rates; 5 at rates involving either an *ad valorem* rate, if the price was below or equal to a certain amount, or a compound rate, if the price was higher; and 3 alternate rates (*ad valorem* rate or specific rate, whichever was lower).<sup>17</sup> The authorities provided *ad valorem* equivalents (AVEs) for all but

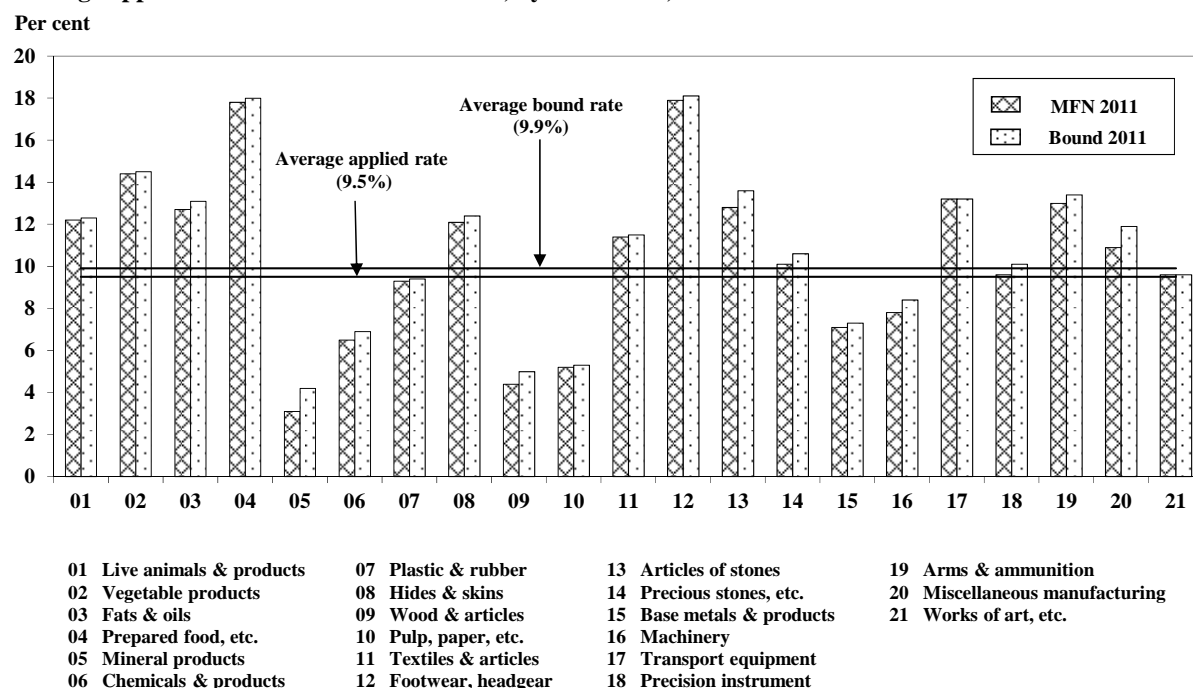
<sup>16</sup> As at 1 January 2011, 399 tariff lines were fully subject to interim tariffs at the HS 8-digit level. Including "ex-" lines, interim tariffs applied to another 193 tariff lines. However, the analysis here includes only the 399 lines that were fully subject to interim rates, which also include lines with non-*ad valorem* rates.

<sup>17</sup> The 3 lines (HS 4001.10.00, 4001.21.00 and 4001.22.00) are subject to interim tariff rates, which are lower or equal to standard applied MFN rates.



three non-*ad valorem* tariff lines.<sup>18</sup> The AVEs were calculated based on the average import prices for the four previous years, as provided by Customs; for a few tariff lines, certain factors such as no importation or drastic price fluctuations were taken into account. The authorities maintain that applied non-*ad valorem* duty rates are adjusted annually so that their AVEs do not exceed their corresponding bound rates, which are all *ad valorem* rates in accordance with China's accession commitments. As bound rates are *ad valorem* and applied rates are non-*ad valorem*, there is a possibility that AVEs might exceed the bound rates, reflecting fluctuating import prices.<sup>19</sup> Including AVEs does not change the simple average applied MFN duty rate for 2011.

**Chart III.1**  
Average applied MFN and bound tariff rates, by HS section, 2011



Note: Calculations exclude in-quota tariff rates and include AVEs for non-*ad valorem* rates.

Source: WTO Secretariat calculations, based on data provided by the Chinese authorities.

26. The simple average applied MFN duty rate was 9.5% in 2011 (the same as in 2009).<sup>20</sup> The simple average applied MFN rates for agricultural products (WTO definition) and non-agricultural products were 15.1% (slightly lower than in 2009) and 8.6% (unchanged), respectively.

27. The dispersion in applied MFN rates, indicated by the coefficient of variation, was 0.8% in 2011 (unchanged since 2009)<sup>21</sup>; the standard deviation of tariff rates was 7.5% (also unchanged).

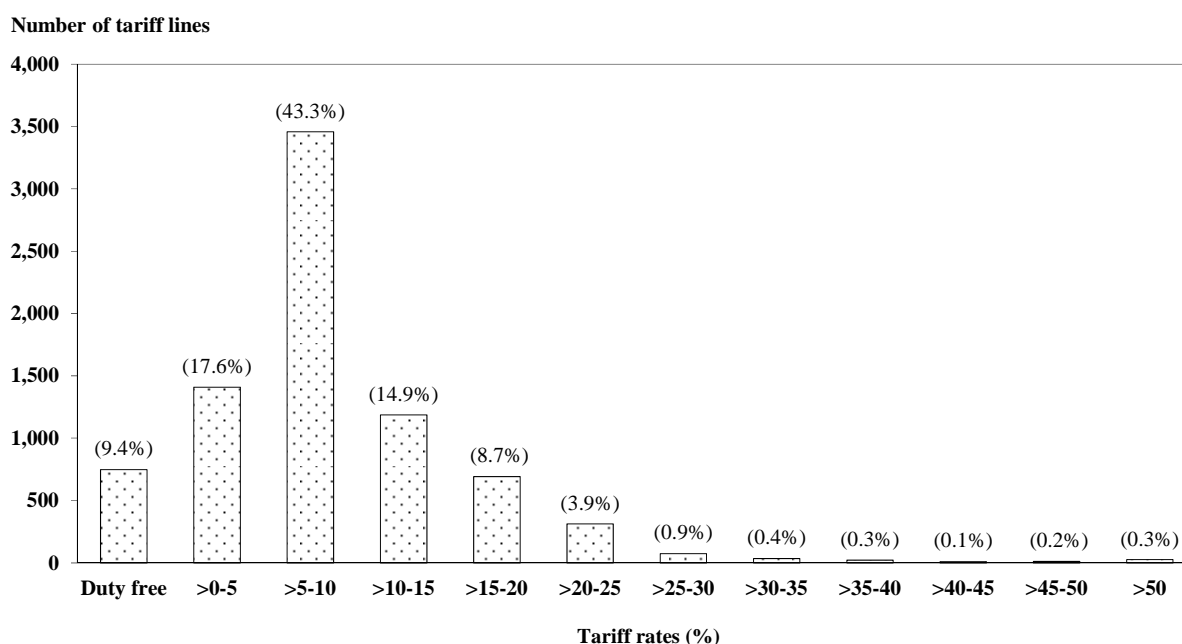
<sup>18</sup> The 3 lines are those mentioned in the previous footnote. Their applied MFN tariffs are *ad valorem* rates, but their interim tariffs are alternate rates.

<sup>19</sup> For the 52 non-*ad valorem* lines, the AVEs were the same as the bound rates for 46 lines; and the AVEs of interim rates were lower than the bound rates for 3 lines (HS 3701.30.24, 3702.55.20, and 8521.10.11). AVEs were not provided for HS 4001.10.00, 4001.21.00 and 4001.22.00.

<sup>20</sup> Excluding interim rates, the simple average applied MFN tariff rate was 9.8% in 2011 (same as in 2009).

China's applied MFN tariffs show positive escalation between semi-processed and fully processed products for, *inter alia*, textiles and leather, wood and furniture, and chemicals, and in some cases negative escalation between unprocessed and semi-processed products (Chart III.3).

**Chart III.2**  
**Distribution of MFN tariff rates, 2011**



**Note:** Figures in parentheses indicate the share of total lines. Calculations exclude in-quota rates, include AVEs for *non-ad valorem* rates and include interim duty rates.

**Source:** WTO Secretariat calculations, based on data provided by the Chinese authorities.

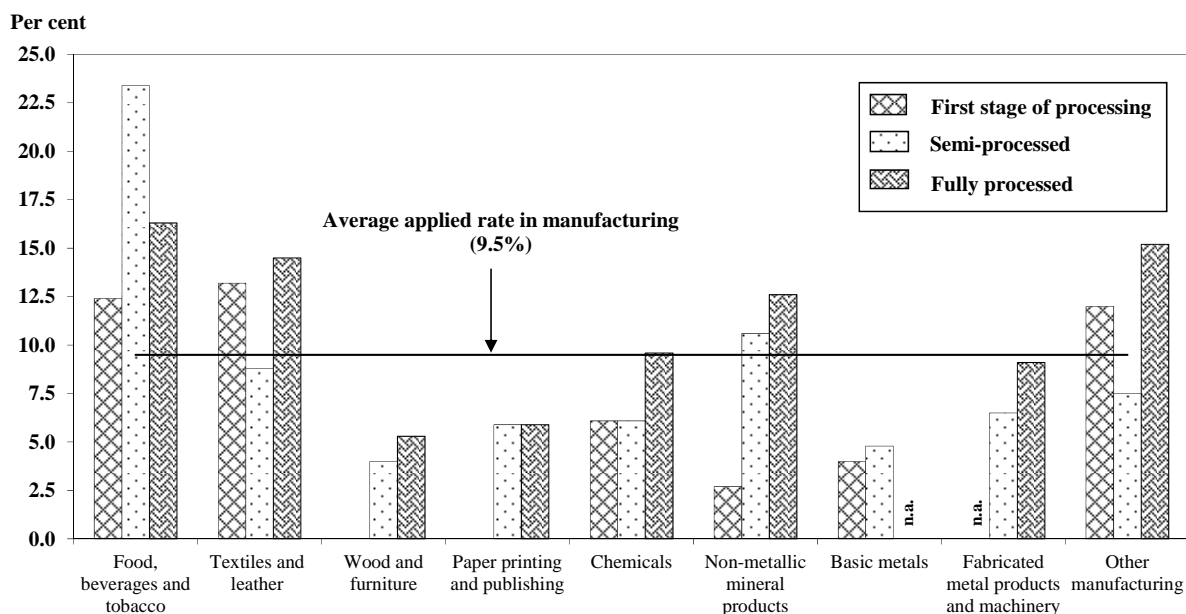
(c) Non-MFN rates

28. China accords preferential tariff rates (agreement rates) under various bilateral/regional trade agreements or arrangements (Table III.2). In addition, China applies special preferential tariffs (zero rated) unilaterally to imports of a number of goods from 36 least developed countries (LDCs) with which it has diplomatic relations (Chapter II(3)(iii)). China intends to eliminate tariffs on 97% of its tariff lines (at the HS 8-digit level) on imports from these LDCs; in 2011, tariffs were eliminated on 60.5% of tariff lines.

29. "General" tariff rates are applied to imports whose origin cannot be determined, or that originate in countries and regions to which China does not apply MFN tariff rates, agreement rates, or special preferential rates (i.e. El Salvador and some territories of EU member states, as well as WTO non-members). In 2011, the simple average of the general rates was 56.8%, much higher than the applied MFN rate (9.5%) (the simple average of the general rates for agricultural products (WTO definition) and non-agricultural products were 68.4% and 55.0%, respectively).

<sup>21</sup> Trade distortions may be caused not only by a high level of tariff protection, but also high disparity of protection across different product categories. The greater the tariff dispersion across products, especially closely related products, the more opportunity there is for tariff evasion.

**Chart III.3**  
**Tariff escalation by 2-digit ISIC industry, 2011**



n.a. Not applicable.

Note: Calculations exclude in-quota rates, include AVEs for non-ad valorem rates and include interim duty rates.

Source: WTO Secretariat calculations, based on data provided by the Chinese authorities.

**Table III.2**  
**Summary analysis of China's preferential tariff, 2011**  
 (%)

	Total		WTO agriculture		WTO non-agriculture	
	Average (%)	Duty-free rates <sup>a</sup> (%)	Average (%)	Duty-free rates <sup>a</sup> (%)	Average (%)	Duty-free rates <sup>a</sup> (%)
MFN	9.5	9.4	15.1	7.0	8.6	9.8
<b>Agreement tariff rates</b>						
APTA <sup>b</sup>	8.9	9.6	14.1	8.0	8.1	9.9
ASEAN						
Brunei Darussalam	1.0	91.7	2.5	89.7	0.7	92.0
Cambodia	1.1	90.8	2.6	88.7	0.9	91.1
Indonesia	1.0	91.7	2.5	89.8	0.8	92.0
Laos	1.1	90.9	2.6	89.1	0.9	91.1
Malaysia	1.0	91.7	2.5	89.8	0.8	92.0
Myanmar	1.0	91.7	2.5	89.6	0.8	92.0
Philippines	1.0	91.7	2.5	89.4	0.7	92.0
Singapore	1.0	91.7	2.5	89.8	0.7	92.0
Thailand	1.0	91.7	2.5	89.4	0.8	92.0
Viet Nam	1.0	91.7	2.5	89.4	0.8	92.0
Hong Kong, China CEPA <sup>c</sup>	7.3	29.4	13.0	19.7	6.4	31.0
Macao, China CEPA <sup>c</sup>	7.5	24.6	10.6	32.5	7.0	23.3
Chinese Taipei ECFA <sup>d</sup>	9.2	10.3	15.0	7.0	8.3	10.9

Table III.2 (cont'd)

	Total		WTO agriculture		WTO non-agriculture	
	Average (%)	Duty-free rates <sup>a</sup> (%)	Average (%)	Duty-free rates <sup>a</sup> (%)	Average (%)	Duty-free rates <sup>a</sup> (%)
Pakistan FTA	6.2	35.8	12.1	21.9	5.3	38.1
Chile FTA	1.4	75.1	3.9	67.2	1.0	76.4
New Zealand FTA	2.4	24.9	5.1	13.9	1.9	26.6
Singapore FTA	9.0	12.2	14.1	10.6	8.2	12.5
Peru FTA	4.8	61.2	10.8	30.4	3.8	66.1
Costa Rica FTA	4.7	65.5	11.1	34.1	3.7	70.5
<b>Least developed preferential rates</b>						
<b>Special preferential tariff agreement for:</b>						
Bangladesh and Laos under APTA	9.3	10.4	15.0	7.0	8.4	11.0
Cambodia	8.8	14.6	12.2	28.2	8.3	12.5
Laos	9.0	13.1	13.1	21.4	8.4	11.8
Myanmar	9.1	12.2	14.0	13.5	8.4	12.0
36 LDCs	5.1	60.6	9.3	55.5	4.4	61.4
Niger and Somalia under LDC	8.9	15.3	14.6	10.7	8.0	16.1

a Duty-free lines as a percentage of total tariff lines.

b Preferential rates under APTA are applicable to the Republic of Korea, Sri Lanka, Bangladesh, India, and Laos.

c Closer Economic Partnership Agreement.

d Cross-straits Economic Co-operation Framework Agreement. According to the Chinese authorities, tariff reductions under the ECFA have not yet been fully implemented.

Note: Calculations are based on the national tariff line level (8-digit); excluding in-quota rates and including AVEs for non-*ad valorem* rates provided by the authorities, as available. Interim duty rates are used for the calculations when fully applied at the 8-digit level.

Source: WTO Secretariat calculations, based on data provided by the authorities of China.

(d) Tariff-rate quotas (TRQs)

30. China's rules regarding TRQ administration are the Interim Measures on the Administration of Tariff Rate Quota for Importation of Agricultural Products<sup>22</sup>, and the Interim Measures on the Administration of Tariff Rate Quota for Importation of Fertilizers.<sup>23</sup> Based on these rules, MOFCOM and National Development and Reform Commission (NDRC) issue product-specific implementing rules each year.

31. In 2011, TRQs were applied to 8 categories of imported goods, involving 45 tariff lines at the HS 8-digit level: wheat (6 lines), maize (5), rice (14), sugar (6), wool (6), wool tops (3), cotton (2), and chemical fertilizers (3) (same as in 2009). A sliding duty is applied to out-of-quota imports of cotton. In 2011, this duty was applied so that, for cotton valued above a certain threshold, a specific duty of ¥0.57/kg applied; for cotton valued below the threshold, the rate was calculated based on an equation, but was no higher than 40%, taking into consideration the c.i.f. price of cotton (in Chinese yuan). The threshold for 2011 was ¥11.397/kg. The average applied in-quota rate was 4.8%, while the out-of-quota rate was around 50.4%. These TRQs are applied to imports from all countries. The process of quota allocation and re-allocation is managed by the NDRC and MOFCOM.

<sup>22</sup> MOFCOM and National Development and Reform Commission Decree No. 4 in 2003, WTO documents G/LIC/N/1/CHN/4 and G/AG/N/CHN/2.

<sup>23</sup> Former State Economic and Trade Commission and GAC Decree No. 27 in 2002, and MOFCOM Announcement No. 59 in 2004 (WTO document G/LIC/N/1/CHN/4).

(e) Tariff exemptions and reductions

32. China's schedule of tariff exemptions remains unchanged since 2010.<sup>24</sup>

33. Raw materials and spare parts may be imported in bond under processing trade, in accordance with relevant provisions; this policy also applies to processing trade within Customs controlled areas such as export processing zones.<sup>25</sup> Processing trade accounted for 41.2% and 38.9% of total trade in 2009 and 2010 (the latest years for which data were made available by the authorities), respectively.<sup>26</sup> With a view to reducing energy consumption and protecting the environment, the Government may not grant preferential treatment under processing trade to certain goods (section (2)(v)).

**(iii) Indirect taxes affecting imports**

34. VAT and excise taxes, where applicable, are collected at the border on imports. The rates for imports and domestically produced goods are generally the same.<sup>27</sup> The current VAT rates are 17% or 13% for most goods (section (4)(b)). Some imports, such as those destined for export processing zones, may be granted VAT reductions or exemptions, in accordance with relevant provisions.

**(iv) Import prohibitions and licensing**

35. The authorities state that China has no WTO-inconsistent quantitative restrictions on imports.

(a) Import prohibitions

36. Under the Foreign Trade Law<sup>28</sup>, China maintains import prohibitions on grounds of public interest, environmental protection, or in accordance with international commitments. In general, prohibited products are listed in the Catalogues of Commodities subject to Import Prohibitions<sup>29</sup>, issued by the MOFCOM and other relevant ministries, such as the General Customs Administration, AQSIQ or the Ministry of Environmental Protection. Changes in China's import prohibitions included those concerning incandescent lamps, with a view to improving energy efficiency, protecting the environment, and responding to global climate change, in accordance with the Energy Conservation Law; the prohibitions are to be implemented between 1 November 2011 and 1 October 2016.<sup>30</sup>

37. The Foreign Trade Law (Article 18) permits the State Council's competent Foreign Trade Authority, which is MOFCOM either independently or with other relevant State Council authorities,

---

<sup>24</sup> Tariff exemptions apply to: goods of a single consignment on which the applicable duties are estimated to be no more than ¥50; advertising materials and samples of no commercial value; goods and materials provided free by international organizations or foreign governments; goods damaged prior to Customs release; and fuels, stores, beverages, and provisions for use en route, loaded on any means of transport in transit across the frontier.<sup>24</sup> Tariff exemptions and reductions also apply to goods imported by designated enterprises as specified in certain policies (WTO, 2010).

<sup>25</sup> If the goods are not exported within the specified period, import duties are collected by Customs.

<sup>26</sup> Exports and imports under processing trade accounted for 48.8% and 32.0% of China's total exports and imports, respectively, in 2009 and 46.9% and 29.9% in 2010.

<sup>27</sup> Primary agricultural products sold by farmers directly to consumers are exempt from VAT. According to the authorities, this exemption is implemented on grounds of, *inter alia*, administrative simplicity.

<sup>28</sup> WTO document G/ADP/N/1/CHN/2/Suppl.4, 1 December 2004.

<sup>29</sup> MOFCOM online information (in Chinese). Viewed at: <http://www.mofcom.gov.cn/aarticle/b/c/200602/20060201575919.html> [12.10.2011].

<sup>30</sup> NDRC/MOFCOM/Customs/SAIC/AQSIQ Announcement 2011/28, 1 November 2011.

upon the approval of the State council, to issue temporary prohibitions or restrictions on imports of certain products. These temporary prohibitions appear to reflect mainly SPS concerns and decisions by international organizations.

38. Import prohibitions have been notified under Article XX at the HS eight-digit level; the latest notification submitted was for 2009.<sup>31</sup> In 2011, import prohibitions covered, *inter alia*: waste (e.g. products of animal origin, mineral products, rubber, skins and leather, paper, glass, lead, toys and sport equipment, copper, cement), second-hand/used items or scraps (e.g. clothes, precious metals, machinery and electronic equipment, aluminium containers for compound or liquefied gas, transport equipment), opium, chemicals, and incandescent light bulbs.

39. Imports may also be prohibited on grounds of animal, plant, or human health and safety, in accordance with Article 16 of the Foreign Trade Law and Article 4 of the Regulations for the Implementation of the Law on the Entry and Exit Animal and Plant Quarantine.

(b) Licensing

40. China's import licensing regime is regulated by the Foreign Trade Law<sup>32</sup>, the Regulations on Administration of Import and Export of Goods (State Council Decree No. 332 in 2001)<sup>33</sup>, the Administrative Permission Law, as well as the Measures on Administration of Import Licence for Goods<sup>34</sup>, and the Measures on Administration of Automatic Import Licensing for Goods.<sup>35</sup>

41. Based on these rules, MOFCOM together with the General Administration of Customs (GAC) and other relevant authorities issue the annual Catalogue of Goods Subject to Automatic Import Licensing Administration, and the Catalogue of Goods Subject to Import License Administration in the second half of every year in the form of a MOFCOM Announcement, which is to be implemented the following year.<sup>36</sup> These two catalogues list all the products subject to import licensing procedures except for those under Tariff Rate Quota (TRQ) administration. The authorities state that the regime applies equally to goods from all WTO Members and non-members. Licences are not transferable. No fees, charges, deposits or advance payments are required for the issuance of licences.

*Non-automatic import licences*

42. In 2010, 87 tariff lines (at the HS 8-digit level) were subject to non-automatic import licensing (down from 95 in 2009)<sup>37</sup>; the lines cover ozone-depleting substances (with a view to meeting requirements of the Montreal Protocol on Substances that Deplete the Ozone Layer), and specific old mechanical and electronic products (aimed at protecting public interests, the environment, and consumer health and safety).<sup>38</sup> Second-hand/used mechanical and electrical products

<sup>31</sup> Notified to the WTO Market Access Division.

<sup>32</sup> WTO document G/LIC/N/1/CHN/4.

<sup>33</sup> WTO document G/LIC/N/1/CHN/4.

<sup>34</sup> MOFCOM Decree No. 27, 2004; and WTO document G/LIC/N/1/CHN/5.

<sup>35</sup> MOFCOM and GAC Decree No. 26, 2004.

<sup>36</sup> The latest Catalogue of Goods Subject to Automatic Import Licensing Administration (for 2012) was issued on 10 December 2011. MOFCOM online information (in Chinese). Viewed at: <http://www.mofcom.gov.cn/aarticle/b/e/201112/20111207908966.html>. The latest Catalogue of Goods Subject to Import License Administration (for 2012) was issued on 5 January 2012. MOFCOM online information (in Chinese). Viewed at: <http://www.mofcom.gov.cn/aarticle/b/c/201201/20120107914675.html>.

<sup>37</sup> WTO document G/LIC/N/3/CHN/9, 11 November 2010.

<sup>38</sup> Non-automatic licences are also required for imports of chemicals used for military purposes, toxic materials, and radioactive isotopes and their compounds.

(HS 84194010 and 84194020) were removed from the list on 1 January 2011. Applicants must apply for an import permit prior to applying for an import licence. The criteria for approving the import permit are contained in Measures on Administration of Import License for Goods (MOFCOM Decree No. 27 of 2004, G/LIC/N/1/CHN/5), Administrative Measures for the Import of Key Used Electromechanical Products (MOFCOM, GAC and AQSIQ Decree No. 5 of 2008, G/LIC/N/1/CHN/6), and Working Rules on Issuance of Import License (MOFCOM Circular Shang Pei Fa 360/2007). Import permits are issued by the Ministry of Environmental Protection or MOFCOM, depending on the product.<sup>39</sup> Once the permit is obtained, a licence will be granted automatically by MOFCOM to the importer. The licence is valid throughout the calendar year, and may be extended once, for a maximum of three months.<sup>40</sup>

#### *Automatic import licences*

43. The authorities state that automatic import licences are applied in China to monitor certain imports for statistical purposes; automatic import licensing entails no quantitative import restrictions. In 2010, 592 lines at the HS 8-digit level (7.4% of total lines) were subject to automatic import licensing, up from 560 tariff lines (7.1% of total lines) in 2009<sup>41</sup>; 32 tariff lines were added to the list on 1 January 2010, and 21 lines on 1 January 2011. These concerned mainly poultry, vegetable oil, tobacco, chemical fertilizers, coal, natural rubber, iron ore, crude and processed oil, steel, machinery products, automobile components, and ships.

#### **(v) State trading**

44. Under the Foreign Trade Law, the State may subject certain goods to state trading, with a view, *inter alia*, to ensuring stable domestic supply, stabilizing prices, food safety, and protecting the environment and exhaustible resources.<sup>42</sup> Products subject to state-trading (on imports) comprise: grain (including wheat, maize, and rice), sugar, cotton, chemical fertilizer, tobacco, crude oil, and processed oil (Table AIII.2). Imports of vegetable oil (rapeseed oil, palm oil, and soybean oil) were removed from the state trading requirement in 2006, although the Government reserves the right to conduct state trading in respect of these products in accordance with China's Accession Protocol.

45. Only the China National Tobacco Import & Export Group Corporation, a state-trading corporation, is allowed to import tobacco. All other products subject to state trading may be imported by both STEs and non-STEes meeting certain requirements; no data on import and export quantities for products subject to state-trading arrangements for the review period were made available to the Secretariat.<sup>43</sup>

---

<sup>39</sup> Import permits for ozone-depleting substances are issued by the Ministry of Environmental Protection. For old mechanical and electronic products and other materials, permits are issued by the MOFCOM.

<sup>40</sup> Measures on Administration of Import License for Goods (MOFCOM Decree No. 27 of 2004, WTO document G/LIC/N/1/CHN/5) and Working Rules on Issuance of Import License (MOFCOM Circular Shang Pei Fa 360/2007).

<sup>41</sup> WTO document G/LIC/N/3/CHN/9, 11 November 2011.

<sup>42</sup> China's latest notification to the WTO concerning the list of STEs was made in 2003 (WTO document G/STR/N/9/CHN/Add.1, 14 July 2003).

<sup>43</sup> For wheat, maize, rice, sugar, cotton, and chemical fertilizers, these requirements are specified in the annual announcement of the quota volume and allocation methods issued by MOFCOM; for crude and processed oil, the requirements are set out in MOFTEC (now MOFCOM) Decree No. 27 of 2002 and MOFTEC Announcement No. 19 of 2002.

46. Most state-trading products are also subject to tariff-rate quotas. Data provided by the authorities show that the shares of tariff-rate quotas allocated to STEs remain high and unchanged. In 2011, STEs accounted for 90%, 70%, 60%, 50%, and 33% of total tariff quotas allocated for wheat, sugar, maize, rice, and cotton, respectively.

**(vi) Contingency trade measures**

47. There have been no major changes in China's institutional and procedural framework and legislation on contingency trade measures since its previous Review.

*Anti-dumping measures*

48. Anti-dumping measures may be taken under the Foreign Trade Law<sup>44</sup>, the Regulations on Anti-Dumping (the AD Regulations)<sup>45</sup>, and a number of published Rules, some of them provisional.<sup>46</sup>

49. MOFCOM is responsible for investigating and determining dumping, injury, and causal link. Within MOFCOM, the Bureau of Fair Trade for Imports and Exports (BOFT) is in charge of investigating and determining whether dumping has occurred, while the Investigation Bureau of Industry Injury (IBII) investigates and determines injury caused to industry. These two bureaux in MOFCOM are jointly responsible for determining whether there is a causal link between dumped imports and injury. When the anti-dumping investigation involves agricultural products, the injury investigation is conducted jointly by MOFCOM and the Ministry of Agriculture.

50. Anti-dumping complaints may be brought to MOFCOM in writing by any domestic enterprise, natural or legal persons, or relevant organization, on behalf of the domestic industry.<sup>47</sup> MOFCOM must decide whether to initiate an investigation within 60 days of receipt of a complaint.

51. MOFCOM may also self-initiate an anti-dumping investigation, if it has sufficient evidence of the existence of dumping, injury, and causal link<sup>48</sup>; it did not self-initiate any investigations in 2010 and 2011. Implementing rules regarding the initiation of anti-dumping investigations are set out in Provisional Rules of the Ministry of Foreign Trade and Economic Co-operation on Initiation of Anti-dumping Investigations.<sup>49</sup>

52. China's anti-dumping system includes a range of mechanisms to provide interested parties access to information, and rights of participation. For example, MOFCOM maintains a "public reading room" containing all public (i.e. non-confidential) information in an investigation; interested parties in the investigation have access to the reading room to search, read, and copy all the information (not just information on injury).<sup>50</sup> Interested parties may also apply for a public hearing

<sup>44</sup> WTO document G/ADP/N/1/CHN/2/Suppl.4, 1 December 2004.

<sup>45</sup> WTO document G/ADP/N/1/CHN/2/Suppl.3, 20 October 2004.

<sup>46</sup> WTO documents G/ADP/N/1/CHN2/Suppl. 1, 2, 4, 5, and 6.

<sup>47</sup> The application must contain details of, *inter alia*, the product, source of imports, identity of known exporters, price, and volume and value of domestic production of the like product, and must have supporting evidence on the existence of dumping, injury caused to the domestic industry, and of a causal link between dumping and injury. Articles 13-15, the AD Regulations.

<sup>48</sup> Article 18, the AD Regulations.

<sup>49</sup> WTO document G/ADP/N/1/CHN/2/Suppl.1, 18 February 2003, p. 3.

<sup>50</sup> Rules on Information Access and Information Disclosure in Industry Injury Investigation", MOFCOM decree No. 19 2006, Article 5, WTO document G/ADP/N/1/CHN/2/Suppl.6, 19 October 2007; Provisional Rules on Access to Non-Confidential Information in Anti-Dumping Investigations, WTO document ADP/N/1/CHN/2/Suppl.1, 18 February 2003, p. 25.



regarding dumping or injury. BOFT or IBII decide whether an open hearing is warranted in a particular case; BOFT rules specify that where confidential information is involved, BOFT "upon request of interested parties may decide to take other ways to hold the said public meeting".<sup>51</sup> Before a final determination is made, MOFCOM must inform all known interested parties of the essential facts on which the final determination is based. Further details are stipulated in the Provisional Rules on Disclosure of Information in Anti-dumping Investigations<sup>52</sup> and the Rules on Information Access and Disclosure in Industry Injury Investigations<sup>53</sup>, both issued by MOFCOM.<sup>54</sup>

53. Article 24 of the AD Regulations provides that MOFCOM must make a preliminary determination of dumping, injury and causation.<sup>55</sup> According to the authorities, MOFCOM has made preliminary determinations in all cases resulting in final determinations during the review period. If MOFCOM's determination is affirmative, provisional anti-dumping measures may be applied; these include imposition of provisional duties, or provision of deposits, bonds, or other forms of guarantees.<sup>56</sup> Provisional measures may not exceed four months, but, in "special circumstances", may be extended to nine months; the authorities report that during the review period some provisional measures were extended to nine months pursuant to this article. According to the authorities, "special circumstances" refer to cases where the authorities examine whether a duty lower than the margin of dumping would be sufficient to remove the injury to the domestic industry.<sup>57</sup> Following the preliminary decision, MOFCOM continues the investigation, which must be completed within 12 months of the date on which the decision to initiate is announced, or 18 months under special circumstances.<sup>58</sup>

54. During the investigation, the exporter may offer price undertakings to MOFCOM and MOFCOM may suggest price undertakings to an exporter. In assessing whether to accept an undertaking, MOFCOM must examine, *inter alia*, whether the injury caused by dumping can be eliminated, whether the undertaking can be monitored effectively, whether the undertaking is in the public interest, and whether there is any possibility of circumvention. If the price undertaking is acceptable, MOFCOM may suspend or terminate the anti-dumping investigation.<sup>59</sup> If MOFCOM does not accept the price undertaking, it must provide the reasons to the exporter. Price undertakings may not be sought or accepted unless MOFCOM has made a preliminary affirmative determination of dumping injury and causation. A suspended/terminated investigation may be resumed if the exporter violates the price undertaking, or if MOFCOM considers it necessary for other reasons.<sup>60</sup>

---

<sup>51</sup> The Provisional Rules provide for hearings on dumping (see WTO document G/ADP/N/1/CHN/2/Suppl.1, dated 18 February 2003 (the quoted language is from Article 4)), and on injury (WTO document G/ADP/N/1/CHN/2/Suppl.2, 14 April 2003).

<sup>52</sup> WTO document G/ADP/N/1/CHN/2/Suppl.1, 18 February 2003.

<sup>53</sup> WTO document G/ADP/N/1/CHN/2/Suppl.6, 19 October 2007.

<sup>54</sup> WTO document WT/TPR/M/230/Add.1, 22 February 2011, p. 388.

<sup>55</sup> WTO document G/ADP/N/1/CHN/2/Suppl.1, 18 February 2003, p. 3.

<sup>56</sup> Article 28.1 of the AD Regulations. The decision to levy provisional anti-dumping duties is made by the Tariff Commission of the State Council on the recommendation of the MOFCOM. The decision on the provision of deposits and bonds is made by MOFCOM (Article 29). Provisional measures may not be applied within 60 days of the date of publication of the decision to initiate the investigation (Article 30.2).

<sup>57</sup> WTO document G/ADP/Q1/CHN/54/Suppl.1, 2 May 2005.

<sup>58</sup> Article 26 of the AD Regulations.

<sup>59</sup> Article 33.1 of the AD Regulations.

<sup>60</sup> Articles 31-36 of the AD Regulations. For the Provisional Rules implementing these Regulations, see WTO document G/ADP/N/2/Suppl.2.

55. Under the AD Regulations and provisional Rules on sampling<sup>61</sup>, anti-dumping duties must be determined separately on the basis of the margin of dumping established for each responding exporter or producer. However, MOFCOM will engage in sampling when the number of exporters, producers, types of products or transactions is so large that it would be unduly burdensome and prevent timely completion of the investigation. In the case of numerous producers, the authorities will select samples for investigation and a reserve list from among the exporters and producers that have registered to participate in the investigation; interested parties are notified and may comment on the list within seven days.<sup>62</sup> The methodology for determining the duty for the responding exporters and producers not included in the sample is set out in the Provisional Rules; an "all others rate" for non-responding exporters and producers is established based on facts available.<sup>63</sup>

56. Articles 4-6 of the AD Regulations govern the calculation of dumping margins; there are no additional published Rules governing such calculations. While Article 6 envisions the use of a weighted-average to weighted-average or transaction-to-transaction comparison, it also allows a comparison between a weighted-average normal value and prices of individual export transactions where export prices differ significantly among purchasers, regions or time periods, and therefore it is difficult to make a comparison based on the other comparison methodologies. In practice, China has used the weighted-average to weighted-average comparison methodology in all investigations since entry into force of the WTO Agreement.

57. Article 42 of the AD Regulations specifies that no anti-dumping must be levied in excess of the margin of dumping established in a final determination. Article 42 does not explicitly preclude the imposition of a duty less than the margin of dumping. In practice, however, China does not presently examine the question whether a duty less than the margin of dumping would be sufficient to eliminate the injury caused by dumped imports.

58. Although MOFCOM is responsible for investigating and determining the existence of dumping, injury, and causation, the Tariff Commission of the State Council, an interagency coordination body chaired by the Ministry of Finance, makes the final decision whether to impose anti-dumping duties, based upon a proposal by MOFCOM.<sup>64</sup>

59. MOFCOM's proposal to the Tariff Commission is not a public document; a determination is published by MOFCOM only after the Tariff Commission has made its decision.<sup>65</sup> According to the authorities, to date the Tariff Commission has neither rejected nor modified any proposals by MOFCOM.

60. Article 37 of the AD Regulations provides that the imposition and collection of anti-dumping duties shall be in the public interest. China informed the Committee on Anti-dumping Practices in 2005 that it was still studying how to address public interest considerations, but that in an investigation it would take into account all comments on the issue of public interest.<sup>66</sup> There are no published rules specifying how this consideration must be implemented. According to the authorities, the investigating authorities would properly take into account all comments on the issue of public

<sup>61</sup> WTO document G/ADP/N/1/CHN/2/Suppl.1, 18 February 2003.

<sup>62</sup> Under MOFCOM's Provisional Rules on Questionnaires in Anti-dumping Investigations, the public notice calls upon exporters and producers to register to participate in an investigation within 20 days (WTO document G/ADP/N/1/CHN/2/Suppl. 1, 18 February 2003, p. 10).

<sup>63</sup> WTO document G/ADP/Q2/CHN/4, 14 October 2010, reply to question 1.

<sup>64</sup> Articles 37 and 38 of the AD Regulations.

<sup>65</sup> Xiaochen Wu (2009), p. 202.

<sup>66</sup> WTO document G/ADP/Q1/CHN/54, 8 April 2005, response to question 19.

interest in individual cases. Except in the context of price undertakings, however, final determinations on the imposition of anti-dumping measures have not explicitly addressed the issue of public interest as a consideration underlying the decision whether to impose a measure.

61. If any party is not satisfied with a MOFCOM decision, the case may be reviewed under the Administrative Reconsideration Law.<sup>67</sup> Within MOFCOM, requests for administrative reconsideration are heard by the Department of Treaty and Law.<sup>68</sup> If the applicant considers the result of the administrative reconsideration unsatisfactory, it may appeal the decision to the courts; an applicant may also proceed directly to the courts without seeking administrative reconsideration.<sup>69</sup> Procedures for appeals to the courts are specified under the Rules of the Supreme People's Court on Certain Issues Related to Application of Law in Hearings of Antidumping Administrative Cases.<sup>70</sup> In 2009 and 2011, there were no administrative or judicial appeals in respect to anti-dumping measures; in 2010 there were two administrative appeals<sup>71</sup>, one of which was subsequently appealed to the courts. The latter represents the first judicial review of an anti-dumping measure in China.

62. Article 56 of the AD Regulations indicates that China may take "corresponding" measures when a trading partner "discriminatorily" imposes AD measures on exports from China. This article provoked questions and concerns from Members in the October 2002 meeting of the WTO Committee on Anti-Dumping Practices.<sup>72</sup> China answered that China had not applied Article 56, and that before taking "corresponding measures" in respect of a WTO Member China would resort to the relevant WTO dispute settlement provisions. Recently, the EU submitted a request for consultations regarding China's AD measure on Certain Iron and Steel Fasteners; issues that the EU wishes to raise in the course of the consultations include Article 56 of the Regulations.<sup>73</sup>

63. Article 47 of the AD Regulations provides that China will conduct a new shipper review and determine a separate margin of dumping for a new exporter that can show it is not related to any of the exporters subject to the anti-dumping duty. Provisional rules governing new shipper reviews were

---

<sup>67</sup> Article 53 of the AD Regulations.

<sup>68</sup> Xiaochen Wu (2008).

<sup>69</sup> WTO document G/ADP/Q1/CHN/54/Suppl.1, reply to question 24.

<sup>70</sup> WTO document G/ADP/N/1/CHN/2/Suppl.5, 11 January 2007.

<sup>71</sup> These were: (1) Administrative review cases on Honeywell Resins & Chemicals LLC: on 21 June 2010, Honeywell Resins & Chemicals LLC was not satisfied with the Final Antidumping Determination on Nylon 6 Originating in the United States, European Union, Russia and Chinese Taipei (MOFCOM *Gazette* No. 15, 2010, issued on 22 April 2010), and appealed to MOFCOM for administrative review. On 12 July, MOFCOM accepted the appeal for administrative review after the re-submission of administrative review appeal materials by the applicant, who submitted an application for withdrawal of Administrative Reviews to MOFCOM on 27 August. Since it accorded with withdraw conditions upon examination, MOFCOM produced the Decision on Administrative Review Termination (Shang Fu Zi 6/2010) on 6 September 2010 to terminate administrative review. (2) Administrative review cases on Russia NLMK Group (collective name for OJSC Novolipetsk Steel and VIZ-Stal Ltd.): Russia NLMK Group was not satisfied with the Final Determination on the Anti-dumping Investigation Concerning Imported Grain Oriented Flat-rolled Electrical Steel Originating in, *inter alia*, Russia, released by MOFCOM on 10 April 2010, and appealed to MOFCOM for administrative review on 6 September 2010. After the re-submission of administrative review materials by the applicant, MOFCOM accepted the appeal for administrative review in August 2 and produced the decision on administrative review on 8 October 2010 to maintain the original determination. (3) Administrative litigation cases on Russia NLMK Group: Russia NLMK Group was not satisfied with MOFCOM's decision to maintain the original administrative review determination and filed an administrative lawsuit to Beijing Second Intermediate People's Court in October 2010. The case is currently being processed.

<sup>72</sup> WTO document G/ADP/M/22, 21 March 2003.

<sup>73</sup> WTO document WT/DS407/1, 12 May 2010.

notified to the WTO in 2002 and remain in effect.<sup>74</sup> In 2009, China made draft rules on new shipper reviews available for public comment. Under these rules, the applicant may apply for a review within 30 days of an "actual export"; the exports must be in sufficient quantities as to constitute the basis for the determination of the ordinary export price. MOFCOM will decide whether to initiate a new shipper review within 30 days from receipt of the application, and will complete the review within 9 months of initiation. Between 2008 and 2010, one new shipper review was initiated.

64. Under Article 46 of the AD Regulations, if an importer can provide evidence that the anti-dumping duty paid is higher than the margin of dumping, he may apply for a duty refund. The application will be examined and verified by MOFCOM, which will make a proposal for decision by the Tariff Commission of the State Council. Implementing rules regarding refund requests were notified to the WTO in 2003.<sup>75</sup> Under these rules, an importer must file an application for refund within three months of payment of the duty. MOFCOM will calculate an updated dumping margin for the product for the six-month period prior to the application, and the amount of the refund will be the difference between the updated dumping margin and the dumping margin determined in the original investigation. China does not pay interest on moneys refunded under Article 46.<sup>76</sup> According to the authorities, China has received no requests for refund pursuant to this article.

65. Articles 48-52 of the AD Regulations provide for "expiry" and "interim" reviews.<sup>77</sup> Under these provisions, final measures are imposed for five years, but may be extended following a review.<sup>78</sup> In practice, MOFCOM publishes a notice six months before the measure is scheduled to expire, and initiates a review only if the domestic industry submits an application including sufficient evidence that expiry would likely lead to a continuation or recurrence of dumping and injury.<sup>79</sup> MOFCOM may also initiate a review of the continued need for an anti-dumping measure on its own initiative or upon request of an interested party, provided that a reasonable period of time has elapsed.<sup>80</sup> Any review conducted by MOFCOM must be concluded within 12 months from the date of the decision to initiate the review. From 2008 to 2010, 42 sunset reviews and 5 interim reviews were initiated. Of the 37 reviews initiated in 2008 and 2009, 28 orders (76%) were extended, 7 (19%) were modified, and 2 (5%) were terminated. In addition, 9 orders expired without review and 1 was terminated because the application was withdrawn.

66. Initiations of AD investigations by China increased from 14 in 2008 to 17 in 2009, then decreased to 8 in 2010. According to the authorities, of the 25 investigations initiated in 2009 and 2010, around 80% resulted in provisional measures, compared with 94% in 2007-08. On the other hand, final AD duty orders rose from 4 in 2008 to 12 in 2009, and to 15 in 2010. In 2008-09, 87% of investigations resulted in final AD duty orders (Chart III.4).<sup>81</sup> China had 117 AD duty orders in effect as of December 2010, up from 97 in 2009. Imports from 18 countries or territories were affected.

<sup>74</sup> WTO document G/ADP/N/1/CHN/2/Suppl.1, 18 February 2003.

<sup>75</sup> Provisional Rules of Ministry of Foreign Trade and Economic Co-operation on Refund of Anti-dumping Duty (WTO document G/ADP/N/1/CHN/2/Suppl. 1, 18 February 2003, p. 36).

<sup>76</sup> WTO document G/ADP/Q1/CHN/54/Suppl.1, 5 May 2005, response to question 22.

<sup>77</sup> While there are no published implementing rules regarding such reviews, China informed the Committee on Anti-dumping Practices in 2009 that it was working on preliminary draft rules on expiry reviews (WTO document G/ADP/18, 28 October 2009).

<sup>78</sup> Article 48 of the AD Regulations.

<sup>79</sup> China also requires that domestic producers requesting an expiry review demonstrate that their request has the support of producers representing a major proportion of domestic production (Xiaochen Wu, 2009).

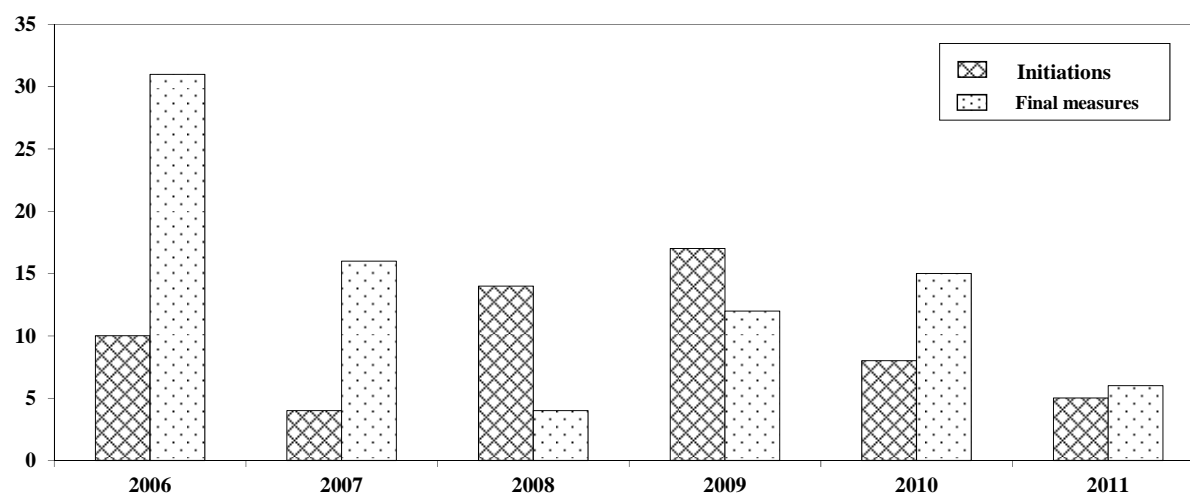
<sup>80</sup> Article 49 of the AD Regulations.

<sup>81</sup> All of the 8 cases initiated in 2010 were still under investigation as of 29 April 2011.

Imports from Japan are subject to the largest number of China's AD duty orders, accounting for about 20% of the total, followed by the Republic of Korea (17%), and Chinese Taipei (10%). Chemical products account for 58% of these orders, while 26% involve resins, plastics, and rubbers. Other categories subject to AD duty orders are base metals, minerals, and papers, each of which accounts for less than 5% of all orders (Table III.3); 43% of AD duty orders had been in place for more than 5 years.

**Chart III.4**  
Anti-dumping initiations and final measures, 2006-11

Number of cases



Source: Data provided by the Chinese authorities.

67. During the period under review (2010-11), the EU and the United States requested consultations with China under the WTO Dispute Settlement Mechanism concerning three of its anti-dumping measures: the provisional AD duties on Certain Iron and Steel Fasteners from the European Union<sup>82</sup>, the final AD duties on Grain Oriented Flat-rolled Electrical Steel from the United States<sup>83</sup>, and the final AD duties on Broiler Products from the United States. A panel was established on the final AD duties on Grain Oriented Flat-Rolled Electrical Steel from the United States on 25 March 2011; this is the first time a panel has been established in respect of a Chinese AD measure.<sup>84</sup>

**Table III.3**  
China's anti-dumping measures by product and by country (in force as of 31 December 2010)

Country	Products								
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
Japan	13	5	1	1	2	1			
South Korea	12	4	1	1	1	1			
United States	10	5	1	1			1	1	
Chinese Taipei	6	5		1					
EU	4	2	1				1		1

Table III.3 (cont'd)

<sup>82</sup> WTO document WT/DS407/1, 12 May 2010.

<sup>83</sup> WTO document WT/DS414/1, 20 September 2010.

<sup>84</sup> WTO document WT/DS414/3, 16 May 2011.

Country	Products								
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
Russia	2	3	1						
Singapore	3	2							
India	3								
Indonesia	2	1							
Malaysia	2	1							
Thailand	3								
United Kingdom	2	1							
France	1	1							
Germany	2								
Italy		1							
Netherlands	1								
New Zealand	1								
Saudi Arabia	1								
<b>Total</b>	68	31	5	4	3	2	2	1	1

Products: (a) Products of the chemical and allied industries.  
(b) Resins, plastics, and articles; rubber and articles.  
(c) Base metals and articles.  
(d) Mineral products.  
(e) Paper, paperboard, and articles.  
(f) Machinery and electrical equipment.  
(g) Textiles and articles.  
(h) Live animals and products.  
(i) Prepared foodstuff; beverages, spirits, vinegar; tobacco.

Source: WTO document G/ADP/N/209/CHN, China's Semi-annual Report under Article 16.4 of the Anti-Dumping Agreement.

### Countervailing measures

68. Countervailing measures may be taken under the provisions of China's Foreign Trade Law, the Regulations on Countervailing Measures (CV Regulations), promulgated in 2001 (latest amendment 31 March 2004)<sup>85</sup>, and a number of published rules, some of them provisional.

69. As in most countries, the investigation process in countervailing investigations in China is similar to that in anti-dumping investigations. However, a significant additional element is the provision for consultations with the government of the exporting country or territory. Under Articles 35-37 of MOCOM's provisional rules relating to initiations, before making a determination to initiate an investigation MOFCOM will invite the government to consultations to clarify the matter and seek a mutually agreeable solution; if a solution is found it may decide not to initiate an investigation. MOFCOM may extend its 60-day decision period for deciding initiations, in order to accommodate the consultations, but the time for consultations must not exceed 60 days.

70. There are some differences between AD and CV procedures. For example, the CV Regulation does not specifically provide for proceedings to refund final duties, and there are no implementing rules on these matters; while the CV Regulation provides for separate determination of countervailing duties based on the amount of subsidy each exporter has received (Article 42), and Article 20 mentions sampling, there are no published rules regarding sampling; and while the CV Regulation does envision an "expedited review" for an exporter who has not actually been investigated, there are no further details in the CV Regulations nor any published procedures

<sup>85</sup> WTO document G/SCM/N/1/CHN/1/Suppl.3, 20 October 2004.

regarding "new shipper" reviews. There are no counterparts to AD implementing rules regarding, *inter alia*, interim reviews, price undertakings or judicial review.

71. China initiated its first countervailing investigation on 1 June 2009. By end-August 2011, it had initiated four investigations, involving grain-oriented flat-rolled electrical steel, broiler products, saloon and cross-country cars, all originating in the United States, and potato starch originating in the EU. The three investigations initiated in 2009 all concluded that there existed a subsidy, an injury and a causal link between the subsidy and the injury. Of the three investigations, two resulted in countervailing duty orders while the other has not as yet resulted in a CVD. The case initiated in 2010 is currently under investigation. The average duration of countervailing investigations is around 13 months (Table III.4).

72. Most of the RTAs that China has notified to the WTO contain provisions regarding the use of anti-dumping and countervailing measures between the parties.<sup>86</sup> However, only two (with Hong Kong, China and Macao, China) preclude the use of such measures between the parties. Under RTAs the parties maintain their rights under the Anti-Dumping and Subsidies and Countervailing Measures Agreements<sup>87</sup>, or will abide by their obligations under those agreements<sup>88</sup>, and/or will not apply the Anti-Dumping Agreement in an arbitrary or protectionist manner. Beyond this, three RTAs contain requirements to notify the other party of the receipt of a properly documented complaint.<sup>89</sup>

**Table III.4**  
Countervailing investigations and measures, 2011

Country	Product	Initiation	Provisional measures	Final measures	Import volume as % of total imports
U.S.	Grain-oriented flat-rolled electrical steel	01.06.2009	10.12.2009	10.04.2010	16.80%
			11.7%-12%	11.7%-12%	
	Broiler products	27.09.2009	28.04.2010	29.08.2010	73%
	Saloon cars and cross-country cars	06.11.2009	All others 12%	All others 44.6%	14%
			3.8%-11.2%	4%-12.5%	
			All others 31.4%	All others 30.3%	
EU	Potato starch	30.08.2010	02.04.2011	14.12.2011	90.27%
			0%-12.9%	0%-12.9%	
			All others 12.9%	All others 12.9%	
			19.05.2011	16.09.2011	
			770%-11.19%	7.5%-12.4%	
			All others 11.19%	All others 12.4%	

*Source:* WTO documents G/SCM/N/219/CHN, 29 April 2011; G/SCM/N/212/CHN, 6 September 2010. MOFCOM Announcement Nos. 13 and 20 (saloon cars and cross-country cars), and Nos. 19 and 54 (potato starch), 2011. Viewed at: <http://english.mofcom.gov.cn/static/column/policyrelease/domesticpolicy.html/1>.

<sup>86</sup> China has notified RTAs with ASEAN; Chile; Hong Kong, China; Macao, China; New Zealand; Pakistan; Peru; and Singapore.

<sup>87</sup> Chile, New Zealand, Pakistan.

<sup>88</sup> ASEAN, Peru.

<sup>89</sup> New Zealand, Peru, Singapore.

*Safeguards*

73. China has not initiated any safeguard investigations pursuant to the WTO Agreement on Safeguard since its previous Review.<sup>90</sup>

74. Safeguard actions may be taken under the Foreign Trade Law and the Regulations on Safeguards (SG Regulations).<sup>91</sup> MOFCOM is responsible for investigating and determining an increase in imports and injury caused; for agricultural goods, investigation and determination of injury takes place jointly with the Ministry of Agriculture. Under the SG Regulations, any natural or legal person, or other organization related to a domestic industry, may make a written application to MOFCOM to take safeguard action against imports. MOFCOM may also initiate an investigation on its own initiative if it has sufficient evidence of injury. Articles 3-5 of the SG Regulations stipulate that the decision to initiate an investigation must be published and notified promptly to the WTO Committee on Safeguards.

75. MOFCOM may levy a provisional safeguard measure under the conditions stipulated in Article 16 of the SG Regulations. The duration of a provisional measure must not exceed 200 days from the effective date of the public notice of the decision on the provisional measure.<sup>92</sup>

76. Final measures take the form of, *inter alia*, tariff increases or quantitative restrictions. They may be applied when the State Council Tariff Commission or MOFCOM makes a final determination that there exists an increase in quantity of an import and it caused an injury to the domestic industry.<sup>93</sup> The decision is published by way of Ministerial Decree on the MOFCOM website.

77. Final safeguard measures may not remain in place for more than four years, except under special circumstances.<sup>94</sup> When a safeguard measure exceeds three years, MOFCOM must conduct a mid-term review of the measure.

78. There is no appeal against decisions taken by the authorities.

79. Regarding "global safeguards" (i.e. safeguards imposed pursuant to Article XIX GATT and the WTO Agreement on Safeguards)<sup>95</sup>, two of China's RTAs provide that a party "may exclude" imports of an originating good from another party from the safeguard action "if such imports are non-injurious".<sup>96</sup> By contrast, four RTAs provide that the parties "maintain their rights" under Article XIX and the WTO Agreement on Safeguards<sup>97</sup>, and two do not address the matter.<sup>98</sup> Six of

---

<sup>90</sup> Since its accession to the WTO in 2001, China has notified one initiation of a safeguard investigation on certain steel products. The investigation was initiated on 20 May 2002, and definitive safeguard measures were imposed between 20 November 2002 and 26 December 2003. Since then, China has not notified any safeguard measures.

<sup>91</sup> WTO document G/SG/N/1/CHN/2/Suppl.3, 20 October 2004.

<sup>92</sup> Article 18 of the SG Regulations.

<sup>93</sup> A decision to take a final measure in the form of tariff increases is made by the State Council Tariff Commission on the basis of the MOFCOM's proposal; a decision to take a final measure in the form of quantitative restrictions is made by the MOFCOM (Article 20 of the SG Regulations).

<sup>94</sup> Article 26 of the SG Regulations.

<sup>95</sup> As opposed to bilateral safeguards to address the consequences of the RTAs themselves.

<sup>96</sup> New Zealand and Singapore.

<sup>97</sup> ASEAN, Chile, Pakistan, and Peru.

<sup>98</sup> Hong Kong, China; and Macao, China.



the RTAs preclude the simultaneous imposition of a global safeguard and a bilateral safeguard under the relevant RTA.<sup>99</sup>

**(vii) Standards and other technical requirements**

**(a) Standards and technical regulations**

80. The legislative basis for the formulation of standards and technical regulations is the Standardization Law of 1988 and the Regulations for the Implementation of the Standardization Law (Decree No. 53 of the State Council of 1990) promulgated in 1990. The mandatory national technical standards are set out in: the Law on Import and Export Commodity Inspection (amended in 2002); the Regulations on the Implementation of the Law on Import and Export Commodity Inspection (amended in 2005); the Food Safety Law and the Regulations on the Implementation of the Food Safety Law promulgated in 2009; as well as other relevant laws, administrative regulations, rules and public announcements.

81. The WTO enquiry point for technical barriers to trade is the International Inspection and Quarantine Standards and Technical Regulations Research Center under the State General Administration for Quality Supervision and Inspection and Quarantine (AQSIQ). The WTO Notification and Enquiry Center of MOFCOM is responsible for China's notifications to the WTO TBT Committee. A number of government agencies are involved in formulating and developing technical standards (including mandatory standards); these include AQSIQ, the NDRC, the Ministry of Agriculture, the Ministry of Health, the Standardization Administration of the People's Republic of China (SAC), the China National Institute of Standardization, the General Administration of Customs, the State Food and Drug Administration, as well as the ministries responsible for policy and its implementation in areas such as trade, construction, railways, communications, information technology, and environmental protection.<sup>100</sup>

82. China continues to be an active member of the WTO Committee on Technical Barriers to Trade. According to the authorities, in the period 1 January 2009 to end-October 2011, China made a total of 350 notifications to the Committee on Technical Barriers to Trade (including revisions, addenda, supplements, and corrigenda). In the same period, through 37 supplementary notifications, unofficial English translations were provided by the EU for some of the documents referred to in the notification.<sup>101</sup> China's notifications cover a wide variety of products and concerns, with particular emphasis on human health and safety. China has used the Committee to raise concerns about measures or proposed measures in its export markets on products ranging from toys to herbal medicines. Other Members have also expressed concerns about TBT measures taken and proposed by China on products ranging from cotton and textiles to lighting and light signalling devices for motorbikes.

83. The Standardization Administration of China (SAC) was established in April 2001. It is the competent department authorized by the State Council to implement administrative functions and to exercise unified administration over the standardization work throughout the country. Its main responsibilities include:

- taking part in drafting and amending laws and regulations on national standardization; drafting and implementing policies concerning national standardization;

<sup>99</sup> ASEAN, Chile, New Zealand, Pakistan, Peru, and Singapore.

<sup>100</sup> WTO document G/TBT/2/Add.65, 29 January 2002.

<sup>101</sup> These translations are available on the WTO Members' website.

- drafting administrative rules and formulating related systems on standardization administration throughout the country;
- organizing the implementation of the State's standardization laws, regulations, policies and systems;
- formulating development programmes for national standardization work;
- organizing, coordinating, and drafting plans on formulating and revising national standards;
- examining, approving, numbering, and issuing national standards;
- administration of funds used to formulate and revise national standards as well as the special funds used in the research of standards and in standardization; and
- representing China in the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), and other international or regional standardization organizations.

84. China is a member of the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), and the International Telecommunication Union (ITU), the World Health Organization of the United Nations (WHO), and Codex Alimentarius Commission, as well as several regional standards organizations such as the Pacific Area Standards Congress.

85. There are four levels of standards in China: national, trade, local and enterprise standards. Under the Regulations for the Implementation of the Standardization Law, in formulating national standards, the competent standardization administration department under the State Council is responsible for making plans, organizing drafting, examining and approving, numbering and issuing national standards. If there are no national standards for technical requirements that need to be standardized for certain trades throughout the country, trade standards may be formulated. Trade standards become null and void automatically after the corresponding national standards enter into effect. In the absence of national standards or trade standards, local standards may be formulated on safety and sanitation requirements for industrial goods that need to be unified in the provinces, autonomous regions, and municipalities directly under the Central Government. Local standards become null and void automatically after the corresponding national standards or trade standards enter into effect. In the absence of national standards, trade standards or local standards for certain products, the enterprises producing such products may formulate their own standards as the basis for organizing production. Where there are already national, trade or local standards, enterprises are encouraged to formulate and apply enterprise standards that are stricter than the corresponding standards.

86. According to the Regulations for the Implementation of the Standardization Law, national and trade standards may be compulsory or recommendatory. Mandatory standards fall into the following categories:

- standards for pharmaceuticals, food hygiene and veterinary medicine;
- safety and hygiene standards for products and the production, storage and transportation, and utilization of products;

- standards for the safety of labour, hygiene standards, and safety standards for transportation;
- quality, safety, and sanitation standards for construction projects and other standards for construction projects that must be controlled by the State;
- standards for the discharge of pollutants concerning environmental protection, and standards for environmental quality;
- important technical terms, symbols, codes, and drafting methods in common use;
- standards for commonly used methods of experimentation and examination;
- standards for conversion and coordination; and
- quality standards for important products that need to be controlled by the State.

87. Local standards for safety and hygiene for industrial products are mandatory in the administrative region in which they were developed. Standards in other categories are voluntary.

88. The process of developing or revising national standards has not changed over the past few years. National standards are formulated in accordance with the following steps:

- a technical committee solicits comments on proposals for standards, and the responses are subject to an initial examination to determine the need for, and feasibility of developing a standard;
- the SAC examines, summarizes, coordinates, and determines the proposals and then issues a Plan of Developing or Revising National Standards;
- a draft of the national standard is prepared by the technical committee, based on the proposal and the need for such a standard, the comments received and the current corresponding international standards;
- the draft standard is circulated to solicit comments. For standards of public concern or other important standards, the drafts are posted on the SAC website for comment. Comments are considered by the technical committee when it examines the draft (as of end-October 2011, there were 489 technical committees, 15% of which included representative of foreign companies). Technical experts and other interested parties are invited to examine draft standards by means of meetings or correspondence, and their opinions are taken into account in the redrafting;
- the final draft is subject to approval by the SAC;
- information about the issuance of a standard is published on SAC's website, and the standard is published by the China Standard Press.

89. The relevant technical committees are responsible for periodic reviews of standards. Standards should be reviewed no longer than five years after they are issued. Following the review, the technical committee may propose that a standard be repealed, if necessary.

90. In cases where a technology is still under development and it is not yet feasible to formulate a standard, a national technical document to guide standardization may be formulated. The development process for these documents is that same as for standards, but the review period is three years.

91. The number of standards developed by the SAC each year peaked in 2008, at nearly 6,000 national standards, of which nearly 600 were mandatory. A similar peak was seen for professional standards. Since then, the number has declined somewhat, although the proportion of mandatory national standards increased from 10% in 2008 to 18% in 2010 (Table III.5).

**Table III.5**  
**China's standards, 2006-10**

	2006	2007	2008	2009	2010
National standards	1,889	1,385	5,911	3,121	2,796
of which: mandatory	276	157	594	283	493
voluntary	1,613	1,228	5,317	2,838	2,303
Professional standards	2,178	3,029	3,087	1,428	3,015
of which: mandatory	335	245	216	255	183
voluntary	1,843	2,784	2,871	1,173	2,832
Local standards	2,377	2,805	2,809	3,110	..
of which: mandatory	220	277	300	252	..
voluntary	2,157	2,528	2,509	2,858	..

.. Not available.

Note: Data on enterprise standards are not available.

Source: Data provided by the Chinese authorities.

92. As of end 2006, 46% of the 21,410 national standards had been adopted from international standards and advanced foreign standards. Of these, 5,064 were from the ISO, 2,075 from the IEC, 314 from ISO/IEC, 50 from ITU, and 2,428 from other international standard organizations. There are no data on the number of trade or local standards that include the contents of the standards formulated by international standard organizations.

(b) Product certification

93. Under the Regulations on Certification and Accreditation and the Measures for the Administration of Compulsory Product Certification, the China National Certification and Accreditation Commission (CNCA) under AQSIQ is responsible for the administration, organization, and implementation of compulsory product certification in China. The AQSIQ and CNCA work with relevant departments of the State Council to formulate and adjust the product catalogue. In addition, the CNCA is responsible for formulating and publishing regulations on the implementation of compulsory product certification.

94. Under the Regulations on Certification and Accreditation, products listed in the Compulsory Product Certification Catalogue may not be sold or imported into China unless they have China Compulsory Certificates (CCCs) and carry CCC marks. The Catalogue lists 22 groups and 163 categories of products, including electrical wires and cables, circuit switches, low-voltage electrical apparatus, small power motors, electric tools, electric welding machines, telecommunications equipment, motor vehicles, tyres, agricultural machinery, household electronic appliances, audio/video equipment, information technology, lighting appliances, safety glass, latex

---

---

products, medical apparatus and instruments, fire safety and prevention products, decoration and ornament products, and toys.

95. As an exception to the requirement to carry the CCC certification, products in the Catalogue may be produced or imported if they are being used for testing, for research and development, for incorporation into other manufactured products, or for processing and re-export in accordance with Article 42 of the Measures for the Administration of Compulsory Product Certification (Order No. 117 of the AQSIQ) promulgated in 2009. In these cases, approval is required from AQSIQ along with testing reports and any other documents required by the CNCA.

96. Applications for CCC certification must be made to a designated accredited certification body (ACB). If the product is in conformity with the relevant standard, the applicant must send samples to a laboratory designated by the CNCA for type testing. The results of the tests are sent to the relevant ACB, which implements a factory examination and, if the results meet requirements, issues a CCC to the manufacturer. The manufacturer may then purchase the CCC mark labels from the Issuance & Management Centre for CCC Mark. In order to ensure that products meet certification requirements, ACBs conduct follow-up inspections of CCC qualified manufacturing facilities every 12 months. Decisions taken by the ACB may be appealed by applicants either to the ACB or to the CNCA, under the provisions of the Regulations of Certification and Accreditation.

97. Ten certification organizations were designated by the CNCA to process applications for CCC marks.<sup>102</sup> The China Quality Certification Centre (CQC) has established 11 branches (branch centres) and has more than 200 designated laboratories, both in China and abroad.

98. The China National Accreditation Service for Conformity Assessment (CNAS) is the national accreditation body of China authorized by the CNCA to provide accreditation for certification bodies, laboratories, and inspection centres. The CNAS was created in March 2006 by merging the China National Accreditation Board for Certifiers and the China National Accreditation Board for Laboratories. The Board of the CNAS is made up of representatives of government, conformity assessment bodies, clients of conformity assessment services, users of conformity assessment, and technical experts. By end-March 2011, the CNAS had issued 324 accreditations to 124 certification bodies in various areas, and had accredited 4,431 laboratories and 244 inspection bodies.

(c) Sanitary and phytosanitary measures

99. Responsibility for policy, legislation, regulations and their implementation on sanitary and phytosanitary issues in China is divided among a number of Government agencies:

- the State Food and Drug Administration (SFDA) is responsible for:
  - policy on, planning, and supervising the implementation of security and management of pharmaceutical products, medical equipment, cosmetics and consumer foods, and participates in drafting related laws, regulations, and department rules;

---

<sup>102</sup> China Quality Certification Centre (CQC), China Certification Centre for Security and Protection (CSP), China Certification Center for Agricultural Machinery (CAM), China Building Material Test and Certification Center (CTC), Beijing Zhonghua Lianhe Quality Certification Center, China Certification Center for Fire Products under the Ministry of Public Security, China Certification Center for Automobile Products (CAP), Guojian Lianxin Certification Center, China Quality Mark Certification Group (CQM), and Certification Center of Light Industry Council.

- formulating and supervising the implementation of quality management regulations on research and development, production, distribution, and use of pharmaceutical products and medical equipment;
  - registering, supervising and managing pharmaceutical products and medical equipment;
  - formulating national standards on pharmaceutical products and medical equipment, supervising the implementation of these standards;
  - formulating supervision and management regulations on traditional Chinese medicines and ethnic medicines, as well as organizing the implementation of the regulations, and formulating quality standards on these medicines. It is also responsible for formulating production and quality management regulations on Chinese herbal medicines and regulations on their preparation, supervising the implementation of the regulations, and organizing and implementing the "protection system" for traditional Chinese medicine.
- the Ministry of Health is responsible for food safety risk assessment and the formulation of food safety standards. In January 2010, under the Food Safety Law and its implementing regulations, the Ministry established the National Food Safety Standards Review Committee which is responsible for reviewing national food safety standards. The Committee is made up of experts in hygiene, agriculture, food, and nutrition. As of end-2011, the Committee has passed 307 national food safety standards;
- the Ministry of Agriculture is responsible for food safety and animal health policies and regulations on farms, including the use of veterinary products, herbicides, pesticides, and other chemicals used in food production. Under the Ministry, the Institute for the Control of Agrochemicals, is responsible for the specific management of pesticide registration, including the designation of standards for the maximum residue of pesticides. The China Institute of Veterinary Drug Control is responsible for the management of veterinary products and biological products for veterinarians;
- MOFCOM is responsible for legislation and policy concerning trade, including trade in agriculture products and agrochemicals. MOFCOM is also responsible for notifications to the WTO;
- other relevant agencies include the State Administration for Industry and Commerce and AQSIQ. The AQSIQ oversees food imports and exports, including legislation, and is responsible for quarantine and is the WTO Enquiry Point for SPS measures in China.

100. The current legislation on SPS issues in China is found in many different laws, including: the Law on the Entry and Exit Animal and Plant Quarantine of 1992, Law on Animal Disease Prevention of 1997, the Law on Agricultural Product Quality Safety, the Animal Husbandry Law, Regulations on Plant Quarantine, the Law on Import and Export Commodity Inspection, the Law on Frontier Health and Quarantine, and the Food Safety Law of 2009 as well as accompanying implementing regulations and rules. The Food Safety Law, which was promulgated and implemented in 2009, covers all aspects of food safety, including food safety risk monitoring and assessment, food safety standards,

food production and operation, food inspection, food import and export, as well as handling, supervision, management, and legal responsibilities of food safety events.

101. China is a member of the Codex Alimentarius and the World Organisation for Animal Health and a contracting party to the International Plant Protection Convention. In each case, the contact point is the relevant department of the Ministry of Agriculture.<sup>103</sup>

102. China is an active participant in meetings of the WTO SPS Committee. In the period between 1 January 2009 and 31 October 2011, China made 376 notifications to the WTO SPS Committee (including revisions, corrigenda, addenda, and supplemental notifications). The supplemental notifications are unofficial translations into English of documents referred to in some notifications.<sup>104</sup> On several occasions, other Members have used the Committee to raise concerns about SPS measures taken or proposed by China, including hygiene standards for distilled spirits, import restrictions on products, and quarantine testing, as well as about SPS notification practices. The concerns about SPS notification practices followed the adoption of the Food Safety Law of 2009 with nearly 100 notifications made with a 15-day comment period. China has also used the Committee to raise a number of issues with other Members, including: measures taken by the United States on imports of food products containing meat, poultry or processed egg products, imports of wooden handicrafts, imports of catfish, and new legislation on food safety; measures taken by Canada on exporters of pet foods; and measures taken by the EU on testing controls for imports on certain types of kitchenware from China and Hong Kong, China.<sup>105</sup>

103. Under the various administrative measures for inspection, quarantine and supervision of imports of different products, a country or region that wishes to export a food product to China for the first time must first be assessed by AQSIQ. The assessment examines factors relevant to the safety of the product concerned. For example, for raw milk and raw processed dairy products, the factors include the veterinary service system, safety and health control system, the system for monitoring food residues, the record for animal epidemics, etc.<sup>106</sup> After both parties have signed a protocol for inspection and quarantine, exports from the country or region by food producers that are registered with AQSIQ can start. The exporting company must be registered with AQSIQ, through its online e-Cert System (see below).

104. AQSIQ and the General Administration of Customs maintain a *Catalogue of Entry-Exit Commodities Inspected and Quarantined by Entry-Exit Inspection and Quarantine Organs*. The catalogue covers goods subject to inspection and quarantine. It includes processed food and beverages as well as semi-processed products and raw materials and foods, such as meat and vegetables. Since 2008, AQSIQ has made five adjustments to the catalogue based on consultations with the Customs and commercial authorities, in accordance with relevant requirements and the

---

<sup>103</sup> Codex Alimentarius online information. Viewed at: [http://www.codexalimentarius.net/web/member\\_info.jsp?iso3=CHN](http://www.codexalimentarius.net/web/member_info.jsp?iso3=CHN); OIE online information. Viewed at: <http://www.oie.int/index.php?id=101>; and IPPC online information. Viewed at: [https://www.ippc.int/?id=1110520&no\\_cache=1&type=contactpoints&L=0](https://www.ippc.int/?id=1110520&no_cache=1&type=contactpoints&L=0) [November 2011].

<sup>104</sup> Unofficial translations into English of a number of China's laws, regulations, administrative measures and other rules relating to food safety and other standards are also available online from the United States Department of Agriculture Foreign Agricultural Service at: [http://www.usdchina.org/en\\_index.asp](http://www.usdchina.org/en_index.asp) [November 2011].

<sup>105</sup> WTO SPS Information Management System. Viewed at: <http://spsims.wto.org/> [November 2011].

<sup>106</sup> USDA FAS (2011d).

quality of import and export commodities, and issued the adjustments with the General Administration of Customs via public announcement.<sup>107</sup>

105. In order to implement the Law on the Entry and Exit Animal and Plant Quarantine (1991) and the accompanying regulations of 1997, AQSIQ has developed rules covering imports of various products, such as the Measures for the Administration of Inspection, Quarantine, and Supervision on the Fruit Entering China (AQSIQ Order No. 68), Measures for Supervising and Administering the Quarantine of Wooden Packages of Goods Entering China (AQSIQ Order No. 84) and others.

106. In order to address problems relating to forging and altering sanitary and phytosanitary certificates and to facilitate trade in agricultural and food products, AQSIQ introduced the China Inspection and Quarantine E-cert System (China E-cert) in 2010. Under the system, all exporters are required to register on-line with AQSIQ and to obtain approval from AQSIQ through their embassy in China. Sanitary and phytosanitary import certificates for each consignment must then be registered with the system.<sup>108</sup>

107. Under the Implementing Rules for the Frontier Health and Quarantine Law, the Implementing Rules for the Law on Import and Export Commodity Inspection and the Implementing Rules for the Law on the Entry and Exit Animal and Plant Quarantine, goods subject to inspection for SPS reasons may be examined in various ways:

- the goods may be released after documents are examined with full examination (possibly including sampling and laboratory assessment) at the final destination;
- the goods may be subjected to a physical inspection at the point of entry into China with full examination at the final destination; or
- a complete examination of the goods may be performed at the point of entry. The choice of method depends on the exporting firm's history of compliance with standards and its international reputation.

108. Exports of animal and plant products listed in the Catalogue are subject to quarantine requirements similar to those on imports and the quarantine requirements of importers. Enterprises exporting some specific products may go through quarantine procedures in the production area instead of at the port. A total of 2,201 10-digit HS codes have been adopted for the exit quarantine of animal and plant products, in the *Statutory Inspection Catalogue*.

(d) Labelling

109. Labelling requirements are maintained under the Standardization Law, the Law on Product Quality of 1993 (as amended), and the Food Safety Law of 2009. Under these laws, all products sold in China must have Chinese language labels. The label must state, *inter alia*, name, specification, net weight, date of manufacture, component or ingredient list of the product, the manufacturer's name,

---

<sup>107</sup> Public Announcement No. 203 in 2011: [www.aqsiq.gov.cn/zwgk/jlgg/lhgg/201112/t20111230\\_206071.htm](http://www.aqsiq.gov.cn/zwgk/jlgg/lhgg/201112/t20111230_206071.htm); Public Announcement No. 158 in 2010: [www.aqsiq.gov.cn/zwgk/jlgg/zjgg/2010/201012/t20101227\\_174159.htm](http://www.aqsiq.gov.cn/zwgk/jlgg/zjgg/2010/201012/t20101227_174159.htm); Public Announcement No. 137 in 2009: [www.aqsiq.gov.cn/zwgk/jlgg/lhgg/200912/t200912331\\_133945.htm](http://www.aqsiq.gov.cn/zwgk/jlgg/lhgg/200912/t200912331_133945.htm); Public Announcement No. 144 in 2008: [www.aqsiq.gov.cn/zwgk/jlgg/zjgg/2008/200812/t20081231\\_102584.htm](http://www.aqsiq.gov.cn/zwgk/jlgg/zjgg/2008/200812/t20081231_102584.htm); Public Announcement No. 5 in 2008: [www.aqsiq.gov.cn/zwgk/jlgg/zjgg/2008/200801/t20080131\\_63224.htm](http://www.aqsiq.gov.cn/zwgk/jlgg/zjgg/2008/200801/t20080131_63224.htm).

<sup>108</sup> AQSIQ online information. Viewed at: <http://english.aqsiq.gov.cn/> [November 2011].



address and contact information, country of origin, quality guarantee period, product standard code and storage conditions, common name, and production licence of food additives.

110. The National Food Safety Standard on General Rules for the Labelling of Prepackaged Foods, published by the Ministry of Health in 2011, is to be adopted in 2012. A draft of the Rules was notified to the WTO TBT Committee in April 2010.<sup>109</sup> Under the Rules all prepackaged foods must carry a label that includes the name of the food(s), a list of ingredients, net weight and configuration, address and contact information of manufacturers and/or distributors, date of manufacture and date of minimum durability, conditions for storage, food production licence number, code of the product standard, and other contents that need to be labelled.<sup>110</sup>

#### (viii) Government procurement

111. Since its previous Review, there have been no major changes to China's legislative and regulatory regime for government procurement. However, China is now well-engaged in the process of acceding to the WTO Agreement on Government Procurement (GPA), and preparatory work is under way on eventual changes to the legislative framework to bring it in conformity with the GPA.<sup>111</sup> Related institutional adaptations, including training of central and local government personnel to implement the Agreement, are also in progress. When completed, China's accession to the GPA is expected not only to substantially facilitate trade, but also to facilitate a modernization of China's procurement system that will yield substantial benefits for China.

112. The Government's objectives in procurement include: improving efficiency in the use of public funds; protecting the rights and interests of the parties participating in government procurement; and promoting better governance.<sup>112</sup> In addition, there is growing recognition of the significance of the government procurement system for both trade and FDI in China.<sup>113</sup>

113. According to data provided by the authorities, the total value of government procurement increased to ¥842.2 billion in 2010, up from ¥599.1 billion in 2008 (Table III.6); it accounted for about 2.1% of GDP (2% in 2008). However, on average, sources indicate that government procurement in developed and developing countries accounts for 10-15% of GDP.<sup>114</sup> The authorities maintain that this small percentage is mainly because the data cover only procurement by government departments, institutions, and public organizations using fiscal funds, for goods, construction, and services listed in the *Centralized Procurement Catalogue*.<sup>115</sup>

<sup>109</sup> WTO document G/TBT/N/CHN/733, 21 April 2010. The EU provided a link to an unofficial translation of the draft Rules in G/TBT/N/CHN/733/Suppl.1, 25 May 2010.

<sup>110</sup> USDA FAS (2011a).

<sup>111</sup> See, for example, State Council online information (in Chinese). Viewed at: <http://www.chinalaw.gov.cn/article/cazjgg/201001/20100100193904.shtml>.

<sup>112</sup> Law on Government Procurement, Article 1.

<sup>113</sup> Measures to ensure transparency, fair procedures and non-discriminatory access to markets in the government procurement sector, for foreign as well as domestic firms, are an important incentive for related investments by multinational enterprises in relation to host economies. See, Anderson et al. (2011).

<sup>114</sup> See Anderson et al. (2011).

<sup>115</sup> Article 8 of the Government Procurement Law specifies that the thresholds for government procurement items under the central budget are prescribed and published by the State Council, and the thresholds for items under local budget are prescribed and published by local governments (of provinces, autonomous regions, municipalities), or the department authorized by them. For example, the threshold for procurement under the central budget in 2011 was ¥500,000 for goods and services, and ¥600,000 for construction projects.

114. Local governments account for a major part of government procurement in China; they accounted for about 93% of the total value of government procurement in 2010.<sup>116</sup> According to the authorities, there are no data on how much of the ¥4 trillion economic stimulus package was allocated to government procurement.

115. The Government Procurement Law applies to procurement of goods, projects, and services listed in the *Centralized Procurement Catalogue*. The catalogue is issued by the Ministry of Finance, or provincial bureau of finance, and is revised from time to time. Purchases of items listed in the catalogue must be carried out by centralized procurement agencies, which are non-profit legal persons. This "centralized" procurement as well as procurement by centralized agencies accounted for more than 85% of government procurement in 2010. "Decentralized" procurement is procurement of items not listed in the catalogue, but with a value above a certain procurement threshold, which is specified by governments at various levels. Decentralized purchasing may be carried out by the procuring agency itself, or through some centralized procurement agencies.

116. The Government does not consider procurement by SOEs as government procurement; the authorities state that China has no plan to include procurement by SOEs, whose daily operations are not controlled by the Government, into the scope of its definition of government procurement.

**Table III.6**  
Government procurement by procurement of goods, construction projects, and services, 2008-10  
(¥ billion)

	2008	2009	2010
<b>TOTAL</b>	<b>599.09</b>	<b>741.32</b>	<b>842.2</b>
<b>Goods</b>	255.92	301.06	317.63
Central government entities	32.36	30.23	30.82
Local government entities	223.56	270.83	286.81
<b>Construction and engineering services</b>	297.84	385.84	453.66
Central government entities	19.25	23.41	17.59
Local government entities	278.58	362.43	436.07
<b>Other services</b>	45.33	54.42	70.91
Central government entities	7.36	8.42	8.28
Local government entities	37.97	46.00	62.63

Source: Information provided by the Chinese authorities.

117. The main laws regulating China's government procurement procedures include the Government Procurement Law of 2002, and the Law on Bid Invitation and Bidding or Tendering of 1999. Other laws, such as the Budget Law, the Contract Law, the Product Quality Law, the Price Law, and the Anti-Unfair Competition Law may also have a bearing on government procurement.

118. Under the Government Procurement Law, the Government is, in principle, required to procure domestic goods, projects, and services.<sup>117</sup> Exceptions can be and are routinely made when the goods, projects, or services required are unavailable in China or unavailable on reasonable commercial terms, or when the goods, projects, and services are procured for use outside China. Nonetheless, the statutory requirement for procurement from domestic sources will have to be addressed in the framework of China's GPA accession, at least in relation to procurement that will be subject to China's GPA commitments.

<sup>116</sup> WTO (2008).

<sup>117</sup> Article 10 of the Government Procurement Law.

119. Furthermore, there are no provisions on local content, or rules of origin, to determine whether a product is produced domestically. In practice, procurement of foreign products appears to occur routinely. The authorities state that the statistical system for China's government procurement has no data on the procurement of foreign products.

120. Goods and services may be procured using: public invitation or tendering, invited bidding, competitive negotiation, single-source procurement, request for quotations, and other methods confirmed by the Ministry of Finance. Public invitation (a form of open tendering) is required for procurement of items exceeding the prescribed procurement thresholds. The thresholds for central government procurement for 2011-12 are ¥1.2 million for goods and services, and ¥2 million for construction projects. For procurement exceeding these thresholds by any other method, Ministry of Finance approval is required. The method of procurement for procurement below these thresholds is decided by the procuring entity, in accordance with the Law.<sup>118</sup>

121. In addition to the Government Procurement Law, procurement of construction and engineering projects is also regulated by the Law on Bid Invitation and Bidding or Tendering, as stipulated by Article 4 of the Government Procurement Law.<sup>119</sup>

122. According to the most recent information provided by the authorities, procurement by public tendering was the most common method in 2010, accounting for about 77% of total procurement value (75% in 2009).

123. Procuring entities must announce government procurement and bidding information in media designated by the Ministry of Finance in "a timely and standard manner" to ensure transparency and fair competition.<sup>120</sup> Suppliers, if unfairly excluded from procurement processes or treated in a discriminatory way, may complain to the procuring agency, appeal to the Government Procurement Division of the Ministry of Finance, or subsequently file a complaint with a court. The authorities state that the Government collects no data regarding the number of complaints.

124. China has not signed any bilateral or regional agreement on government procurement to date.

125. Imports used for procurement purposes require approval from the Ministry of Finance, or its corresponding departments at the local level.

126. China continues to face challenges in implementing a consistent and transparent approach to procurement across all levels of government, such as circumvention of the government procurement system; preferences given to specific suppliers; and lack of budget constraints for government procurement programmes. To meet these challenges, department budgets have been required to be classified in terms of projects, products and services since 2010. The authorities also state that China has been examining procurement contracts to ensure that all contracts are actually implemented;

---

<sup>118</sup> See WTO (2010) for details.

<sup>119</sup> WTO document WT/TPR/M/230/Add.1, 22 February 2011, p. 99.

<sup>120</sup> The official government procurement website is [www.ccgp.gov.cn](http://www.ccgp.gov.cn). The Measures for the Administration of Tenders and Invitations to Bid in Government Procurement of Goods and Services (Order of the Ministry of Finance No. 18) set out the contents and procedures for announcing procurement information, as well as the deadlines for the Tender Pre-Qualification Notice, date of the closing of tender, submission, and announcement of bidding results. The Administrative Measures for Government Procurement Information (Order of the Ministry of Finance No. 19) define the scope and content of procurement information to be announced and the designated media.

enhanced supervision and inspection of purchasers and procurement agencies; and strengthened punishment in the case of violation.

127. The authorities maintain that there is no longer any condition attached to government procurement regarding "indigenous innovation".<sup>121</sup> They state that at the national level, preferential government measures for "indigenous innovation" have not been implemented. While the authorities indicate that such measures were introduced in some regions but have already been eliminated, details of these measures were not made available to the Secretariat.

128. Concerning the state of play regarding China's accession to the GPA, it is currently an observer to the GPA and applied for accession to the Agreement in December 2007. Since then, the terms of its accession have been the subject of intensive discussion in the Committee on Government Procurement, on numerous occasions. Overall, the Committee has consistently expressed its strong appreciation for the commitment that China has shown to its accession process, while also calling for further improvements to China's coverage offer and making clear that significant further work remains to be done before the conclusion of China's accession can be foreseen, including with respect to China's legislative framework.<sup>122</sup>

129. Carrying this process forward, toward the end of 2011, China submitted the GPA Parties its "second revised coverage offer". While the offer has not yet met all of the expectations of the existing Parties, it must nonetheless be said that it responded importantly to requests made to China by the Parties by offering, for the first time, significant proposed coverage of procuring entities at the sub-central (provincial/municipal) government level, in addition to the central government level. Across the membership of the GPA, Parties are now pressing for further movement by China to include greater coverage of entities at the central and sub-central government level, coverage, for the first time, of state-owned enterprises (SOEs) and other improvements.

130. China's accession to the GPA has been estimated as likely to yield market access gains for the existing Parties to the Agreement in the range of US\$113-289 billion.<sup>123</sup> It will eventually give China's suppliers legally-guaranteed access to GPA-covered procurements. However, it should not be forgotten that, in addition to its significance for market access, accession to the GPA can bring other very important benefits, notably with respect to improvements in transparency and related internal procedures, and enhanced value for money in purchases made by central local and other government entities of the acceding WTO Member.<sup>124</sup> For these reasons, China's accession to the GPA, when it is completed, is likely to be a "win-win" outcome for all concerned.

**(ix) Import-related financing**

131. The state-owned Export-Import Bank of China (EXIM Bank) offers import credit to importers in China. This is intended to satisfy the medium- and long-term capital needs of importers of, *inter alia*, capital goods, resources, energy sources, raw materials. Any enterprise approved and registered by China's authorities for the administration of industry and commerce, or by competent

---

<sup>121</sup> Ministry of Finance Circular (Cai Ku 85/2011, promulgated on 23 June 2011) stated that three procurement policies associated to indigenous innovation products, i.e. Cai Ku 29/2007, 30/2007, 31/2007, ceased to be in effect.

<sup>122</sup> See WTO document GPA/110, 16 November 2011, paragraphs 10-13.

<sup>123</sup> Anderson et al. (2011).

<sup>124</sup> Anderson et al. (2011).

authorities, may file an application for import credit to EXIM Bank. In 2010, EXIM Bank facilitated imports of products to a value of US\$53.1 billion.<sup>125</sup>

## (2) MEASURES DIRECTLY AFFECTING EXPORTS

### (i) Procedures

132. The main changes in China's customs procedures on exports since 2010 include the adoption of "classified customs clearance", under which customs clearance of export goods is categorized according to "risk levels" of enterprises based on, *inter alia*, law-abiding records. Under the classified customs clearance, enterprises with good law-abiding records may benefit from facilitated customs clearance, as stipulated in the Public Announcement of the General Administration of Customs Concerning Deepening the Classified Customs Clearance (GAC Public Announcement (2010) No. 56).

133. Exporters must register with Customs before making customs declarations, which must be made by the consigner or an entrusted agent (declaration enterprise) after the goods arrive at the customs surveillance zone, and 24 hours before loading, unless otherwise approved by Customs. China's customs transit procedures for exports have remained largely unchanged since 2009.<sup>126</sup>

134. Exports of animals and plants and their products are subject to SPS requirements similar to those on imports, and to the requirements of the importing country. Enterprises exporting certain products may go through inspection at their production areas, rather than at ports; AQSIQ has a positive list of these products, comprising 2,623 tariff lines at the HS 10-digit level.<sup>127</sup> However, these exports need to be inspected at the port if they are transported in bulk, are for foreign assistance, need to be repacked at ports, or are subject to bilateral or regional agreements requiring SPS inspection at the border. Goods that do not meet the SPS requirements are not allowed to leave the country.

135. The Public Notice on Requirements of Rare-Earth Product Export Declaration (General Administration of Customs Public Notice (2011) No. 37) entered into force on 1 June 2011. China explained that this implements its policy related, *inter alia*, to the conservation of resources and protection of environment. Under the Notice, enterprises exporting rare earth and related products must, *inter alia*, declare the weight percentage of rare-earth components contained in export goods in accordance with the *Catalogue for Specification Declaration of Customs Import and Export Goods 2011*.

---

<sup>125</sup> EXIM Bank (2010).

<sup>126</sup> Under the customs transit procedures, transit in China of goods from any country that has signed agreements with China on transit goods, or those transit goods received or shipped by any country that has signed the Agreement on International Railroad-Through Transport of Goods with China, must be permitted to pass through the territory of China in accordance with relevant agreements. Transit in China of goods from any country that has not signed such an agreement requires approval from China's trade and transportation authorities, and registration with Customs.

<sup>127</sup> AQSIQ online information. Viewed at: [http://www.aqsiq.gov.cn/zwgk/jlgg/zjgg/2008/200807/t20080721\\_82622.htm](http://www.aqsiq.gov.cn/zwgk/jlgg/zjgg/2008/200807/t20080721_82622.htm) [13.10.2011].

**(ii) Export subsidies**

136. The authorities state that China does not provide any export subsidies. In October 2011, China notified to the WTO its subsidy programmes during 2004-08 (section (3)(ii) below).<sup>128</sup>

**(iii) Export taxes**

137. As from January 2010, China eliminated export duties on 17 tariff lines<sup>129</sup> including products such as clays, aluminium ores, chemicals, ferro-alloys; it also reduced interim export duty rates on 21 tariff lines including products such as chemicals and fertilizers.<sup>130</sup>

138. China reduced the off-season export tax rate on some fertilizer products to 7% (from 10%) in 2010<sup>131</sup>; it also prolonged the period of application of the off-season export tax rate on urea by half a month. Export tariffs were eliminated on anhydrous aluminium fluoride, NdFeB alloy quick-hardening permanent magnet, small and medium-sized profile steel, alumina and brown fused alumina made of alumina. On the other hand, in 2011, China raised export tariffs on certain rare-earth minerals, including neodymium and lanthanum chloride (from 15% to 25%), and ferroalloy containing more than 10% rare earth elements (from 20% to 25%).<sup>132</sup>

139. China's export taxes, in the form of statutory rates and interim rates (applied for a specific period), are levied on an MFN basis.<sup>133</sup> The customs value of export goods is based on the transaction value of the goods, together with its transportation, insurance, and other relevant costs for the goods to arrive at the departing point but before loading. Interim export duty rates may be higher than statutory export tax rates; where there are interim export duties on export goods to which the statutory export taxes are applicable, the interim rates apply.

140. In 2011, statutory export taxes were applied to 99 tariff lines (at the HS 8-digit level, except for 1 tariff line where the rate is applied only partially) up from 95 in 2009. The 99 tariff lines involved 70 lines subject to lower and 3 to higher interim export taxes; the remaining 26 lines had no corresponding interim duties.<sup>134</sup> Interim export taxes also applied to 237 tariff lines that were not subject to statutory export taxes; out of the 237 lines, 4 lines involve interim rates that are applied only partially. Most export duties involve *ad valorem* rates ranging from 0 to 40% (unchanged since 2009).

141. China revises its export tax rates from time to time, or adjusts the list of commodities subject to export taxes, or levies special export taxes. In 2011, 8 lines (at the HS 8-digit level) were subject to special export duties.<sup>135</sup> Special export duties currently applied include seasonal duties for chemical fertilizers and their raw materials, aimed at curbing exports of these products during the time they are

<sup>128</sup> WTO document G/SCM/N/155/CHN (G/SCM/N/186/CHN), 21 October 2011.

<sup>129</sup> These concern tariff lines under HS 2508; 2606; 2620; 2818; 2826; 2827; 2834; 7202; and 7216.

<sup>130</sup> These concern tariff lines under HS 2809; 2814; 2834; 3102; 3103; 3105.

<sup>131</sup> The off-seasons for phosphate fertilizer are January, June, July, August, and September. The off-season for urea is from July to October.

<sup>132</sup> WTO document WT/TPR/OV/W5/Rev.1, 7 September 2011.

<sup>133</sup> In Annex 6 of its Protocol of Accession, China listed 84 lines at the HS 8-digit level at statutory export tax rates, and confirmed these would be the maximum export tax levels (WTO document WT/ACC/CHN/49, 1 October 2001).

<sup>134</sup> HS 720110, 720120, 720150 had interim rates at 25%, higher than the corresponding statutory export duty rate of 20%.

<sup>135</sup> China Tariff Schedule 2011. No lines are subject to special export duties only. According to China's 2011 Tariff Schedule, these special export duties were levied at 75%.

in high demand domestically. Including special export duties, the simple average export tax rate on dutiable items (i.e. the simple average based only on lines that have export duties) was around 14.5% in 2011. Including all HS-8 digit tariff lines, the average was 0.6%.

**(iv) Tax rebates on exports**

142. Excise tax is fully rebated on exports.

143. VAT may be rebated on exports, although the rebate rates are, by and large, lower than the VAT rates actually paid. The difference between the two rates constitutes a levy on exports, which may in turn constitute assistance to downstream processing of the products affected, and could affect China's terms of trade. China adjusts VAT rebate rates as part of its industrial policies, to control, restrict, or otherwise "manage" the export of certain products. In particular, on 15 July 2010, China eliminated VAT rebates on exports of steel, starch, ethanol, and semi-finished copper products, covering 406 tariff lines.<sup>136</sup> VAT rebates on exports reached ¥920.5 billion in 2011, some 7.7% of total merchandise exports (up from ¥648.7 billion and 7.9% in 2009).<sup>137</sup>

144. China does not have any duty drawback schemes other than those under "processing trade".

**(v) Tax concessions under processing trade**

145. Under the mode of "processing trade", goods are imported in bond (therefore not subject to import tariffs and related tax) if they are exported within a certain period after processing and assembly. However, materials and parts listed in the *Catalogue of Goods Subject to Import Prohibition Under Processing Trade* may not be imported in bond and thus are still subject to import tariffs and related tax.<sup>138</sup> On 28 September 2010, Public Notice No. 63 (2010), issued jointly by the MOFCOM and Customs, revised this Catalogue.<sup>139</sup> As a result, in 2011, 1,286 tariff lines at the HS 8-digit level were subject to these "export prohibitions under processing trade" (up from 1,016 lines in 2009), 317 lines were subject to import prohibitions (up from 279 in 2009), and another 181 lines (up from 139 lines in 2009) were subject to both import and export prohibitions under processing trade. Criteria for deciding which products are prohibited under processing trade were not made available to the Secretariat.

**(vi) Export prohibitions, restrictions, and licensing**

(a) Export prohibitions

146. Products listed in the catalogues of products subject to export prohibitions are prohibited from being exported under normal trade, mainly because of China's international obligations and domestic considerations regarding environmental and human health protection, and preservation of natural

<sup>136</sup> WTO document WT/TPR/OV/W/5/Rev.1, 7 September 2011.

<sup>137</sup> These figures include rebated excise tax on exports.

<sup>138</sup> A list of products subject to import and export "prohibitions under processing trade" is published online (in Chinese). Viewed at: <http://www.mofcom.gov.cn/aarticle/b/c/200906/20090606300331.html> and <http://cys.mofcom.gov.cn/accessory/201009/1285748122466.xls> [11.11.2011]. If these products are not prohibited from export under normal trade (see below), their export is allowed; however, when exported under normal trade, like other products, import tariffs must be paid on their imported inputs. As China does not have tariff drawbacks, these tariffs may constitute taxes on exports.

<sup>139</sup> The Notice concerned 44 items (under HS 10-digit classification) that were deemed "high emission and energy consuming products".

resources. China has released five batches of export prohibition catalogues since its accession to the WTO; the last took effect on 1 January 2009. China maintained general export prohibitions on a total of 45 items at the HS 8-digit level in 2011 (no change since 2009).

(b) Export quotas and licensing

147. Rare earth has been subject to export quota and licence since 1999. Annual quotas are allocated twice a year. The quota allocations are made in December of the preceding year and in July. MOFCOM Circulars allocating the quota are published on the MOFCOM official website. Quotas for coal exports were set at 38 million tonnes for 2011.<sup>140</sup> China also introduced export quotas (together with licensing requirement) on rare earth ferroalloy (ex. HS 7202.99.91) on 20 May 2011. The authorities believe that these export restrictions could help conserve natural resources or protect the environment. The Secretariat questioned the economic effectiveness of these measures in its report for the last trade policy review of China.<sup>141</sup>

*Export quotas*

148. China applies global quotas as well as destination-specific quotas. Destination-specific quotas apply to live cattle, live swine, and fowl to be exported to the Hong Kong and Macao SARs. After exporters obtain a quota, an export licence is issued by MOFCOM. In 2011, global export quotas applied to 181 lines at the HS 8-digit level, up from 173 lines in 2009; the increase reflects, *inter alia*, the addition in May 2011 of rare earth ferroalloy (ex HS 7202.99.91).

149. The method of allocating export quotas has remained unchanged since the previous Review of China. Some quotas are allocated by the NDRC or MOFCOM, some through a bidding process. When allocating quotas, the Government considers an enterprise's export performance, its previous quota usage, business performance, and production volume in the previous three years. For products subject to state trading (section (vii) below), MOFCOM or NDRC allocates export quotas directly to the state trading enterprises. For other products, MOFCOM allocates quotas either directly to enterprises, or to departments at the provincial level, which allocate the quotas.

*Export licences*

150. China's export licensing requirements are implemented mainly to fulfil its obligations under international agreements.<sup>142</sup> In 2011, 246 lines at the HS 8-digit level were subject to export licensing (242 lines in 2009); these do not cover lines subject to global export quotas.<sup>143</sup> Exporters of products under some tariff lines may obtain a licence from MOFCOM or its authorized agencies if they have the relevant export contracts. For the remaining tariff lines (covering mainly substances depleting ozone, and some metals and their products), exporters must obtain a permit prior to applying for a licence. Export permits are granted by the Ministry of Environmental Protection (for ozone-depleting substances) and MOFCOM (for others). After the exporter obtains the permit, an export licence should be issued automatically by MOFCOM or its authorized agencies.

---

<sup>140</sup> WTO document WT/TPR/OV/W/5/Rev.1, 7 September 2011.

<sup>141</sup> WTO document WT/TPR/S/230/Rev.1, 5 July 2010, Box III.1.

<sup>142</sup> Including: the Montreal Protocol on Substances that Deplete the Ozone Layer; the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction; the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; and the Basel Convention on the Control of Transboundary Movement of Hazardous Waste and Their Disposal.

<sup>143</sup> In addition, exporters of chemicals that may be used for military purposes, and toxic materials, must obtain export licences from MOFCOM before exporting.



**(vii) State trading on exports**

151. China maintains state trading on some exports with a view to: ensuring stable domestic supply; avoiding drastic price fluctuations in international markets; safeguarding food safety; and protecting exhaustible and non-recyclable natural resources and the environment. State trading is not used to fulfil the Government's contractual obligations, except in certain circumstances, such as food aid to foreign countries.<sup>144</sup>

152. Exports that are subject to state trading (the same as at the time of the previous Review) include maize, rice, coal, crude and processed oil, cotton, antimony and antimony products, tungsten and tungsten products, silver, and tobacco (Table AIII.3).

153. While imports subject to state trading may be imported by non-state-trading enterprises (STEs), exports subject to state trading must always be exported by STEs. Some STEs, however, are not state-owned enterprises (SOEs) (for example, for the exports of tungsten, antimony, and silver). The authorities maintain that export prices charged by STEs are determined by the enterprises themselves, based on, *inter alia*, domestic prices plus transportation and storage costs, interest rates, inspection fees, and international market prices.

**(viii) Export finance, insurance, and guarantees**

154. China provides export credit financing mainly through its official export credit agency, the Export-Import Bank of China (EXIM Bank)<sup>145</sup>; it also provides export credit insurance, by the China Export & Credit Insurance Corporation (SINOSURE). According to the authorities, both domestic and foreign firms receive export finance or export credit insurance from the EXIM Bank or SINOSURE under the same terms and conditions, and there is no local-content requirement to obtain export finance.

155. An estimate provided by the Chinese authorities indicates that in 2008 the total value of new medium- and long-term (i.e. more than one year) official export credit by the EXIM Bank amounted to US\$6.3 billion.<sup>146</sup>

156. The EXIM Bank, the only policy bank providing export credit in China, is wholly owned by the Central Government. The EXIM Bank raises funds, *inter alia*, through the sale of bonds in the domestic and Hong Kong China capital markets; according to the Bank, its credit ratings are compatible with China's sovereign ratings. The Bank's main mandate is to facilitate the export and import of Chinese mechanical and electronic products, complete sets of equipment, and new- and high-tech products; assist Chinese companies with comparative advantages in their offshore contract projects and outbound investment; and promote its foreign relationship and international economic and trade cooperation.<sup>147</sup>

---

<sup>144</sup> WTO document G/STR/N/9/CHN/Add.1, 14 July 2003.

<sup>145</sup> The EXIM Bank has 18 branches in China and 3 overseas representative offices (in Johannesburg, Paris, and St. Petersburg) (EXIM Bank, 2010, p. 118. Viewed at: <http://english.eximbank.gov.cn/annual/2010fm.shtml>).

<sup>146</sup> According to another estimate, in 2008, the total value (including loans, guarantees, and insurance by the EXIM Bank and SINOSURE) amounted to US\$59.6 billion, compared with, for example, US\$11.0 billion in the United States and US\$10.8 billion in Germany (US EXIM Bank, 2010).

<sup>147</sup> EXIM Bank (2010), p. 18.

157. Borrowers of export buyer credit must be importers or financial institutions identified by the EXIM Bank or the institutions authorized by the importing country's government; and exporters must be independent legal corporations that are qualified to implement export projects as recognized by the agencies authorized by the Government. An application for export buyer credit must meet conditions including: the country of the borrower enjoys economic and political stability; the borrower has a good credit status and is able to repay credit principal and interest; the borrower provides the repayment guarantee identified by the EXIM Bank; and the borrower buys export credit insurance when necessary.

158. Borrowers of export seller credit must be enterprises with independent legal status, registered in China, and qualified and capable of operating in related sectors. An application for export seller credit must meet conditions including: the borrower has corresponding production capacity, manufacturing capacity and capacity to perform export contracts, or have experience in foreign-related operation; the borrower has a sound operation and management situation, sound financial situation and credit status, and is able to repay credit principal and interest; the relevant contract/agreement has already been signed; the importer and project owner has corresponding capability and has good credit status; the project can generate good economic and social benefits; the country where the project is located enjoys economic and political stability and good investment environment; the borrower purchases export credit insurance against large risks involved in the project; and the borrower provides the repayment guarantee identified by the EXIM Bank.

159. When granting export credit, the EXIM Bank stipulates the percentage of self-owned capital or advance payment for some loan businesses in order to prevent risk.

160. With respect to exports, the EXIM Bank provides mainly direct financing, including seller's credit and buyer's credit for exports. Export sellers' credits signed by the EXIM Bank in 2010 amounted to ¥155.6 billion (¥224.2 billion in 2009). Of this amount, ¥144.22 billion were actually provided (¥173.1 billion in 2009): 33.2% were for overseas investment projects; 30.4% for new-and high tech products; 9.0% for ship exports; 8.6% for general mechanical and electronic products; and 3.6% for exports of agricultural products. In 2010, newly signed export buyer's credits by the EXIM Bank amounted to ¥35.6 billion, while actual disbursements totalled ¥32.6 billion.<sup>148</sup> The amount of the disbursements more than doubled compared with the ¥14.9 billion the Bank disbursed in 2006.

161. The authorities have indicated that, although China is not a participant in the OECD Arrangement on Officially Supported Export Credits, the EXIM Bank in practice "refers to the *Arrangement* for key conditions of issuing export credit and is generally consistent with the basic framework of the *Arrangement*", and that "its lending interest rate is either a fixed one taking reference from OECD-released CIRR or a floating rate which is a reconciled London Inter Bank Offered Rate (LIBOR)".<sup>149</sup> As of the end of 2010, 55.35% of EXIM Bank on-balance lending was in renminbi, and the remaining 44.65% in foreign currencies. The authorities indicate that financial institutions set their own renminbi lending rates subject to a lower limit, which is 0.9 times the PBC benchmark rate.<sup>150</sup>

162. SINOSURE is China's only policy-oriented insurance company specializing in export credit insurance. As a wholly state-owned company, SINOSURE was set up to facilitate Chinese exports and investments, especially exports of high-tech or high value-added capital goods, by offering export

<sup>148</sup> Export buyer's credit refers to credit provided to foreign borrowers with a view to supporting the export of Chinese goods, services, and overseas construction projects (EXIM Bank, 2010, p. 25).

<sup>149</sup> WTO document WT/TPR/M/230/Add.1, 22 February 2011, pp. 355 and 174.

<sup>150</sup> WTO document WT/TPR/M/230/Add.1, 22 February 2011, p. 106.

credit insurance against non-payment risks, and providing services in financing, information, and receivables management.

163. In 2010, the total insured/guaranteed by SINOSURE amounted to US\$196 billion, a 68.5% increase from 2009 (and more than 9 times the amount insured/guaranteed in 2005). The share of total exports with SINOSURE credit insurance was 10.4% in 2010 (3% in 2006), while the share of "general trade" with the insurance was 22.8%.<sup>151</sup> Most of SINOSURE's export credit insurance is short term, but it also provides a significant volume of medium- and long-term export credit insurance, principally in the form of insurance for buyer's credits.<sup>152</sup> In 2010, machinery and electronic products were among the largest items insured/guaranteed (US\$88.1 billion), followed by high- and new-technology products (US\$43.0 billion), and textile products (US\$21.9 billion). Insurance for products related to the shipping industry rose by 147% in 2010.<sup>153</sup>

164. According to the authorities, SINOSURE calculates its premiums based on a designed premium model that takes into account country and commercial risk ratings, credit terms, risks covered, conditions of the insurance policy, and operating and financial costs.<sup>154</sup>

165. China is an observer in the OECD; the EXIM Bank and SINOSURE attended conferences of the OECD and Paris Club in recent years. The EXIM Bank takes the OECD's Arrangement on Officially Supported Export Credits and the practices of official export credit institutions of other countries as reference for its business operations.<sup>155</sup>

#### **(ix) Promotion and marketing assistance**

166. Apart from export financing and insurance, other export assistance includes: online information provided by MOFCOM to facilitate exports, such as information on goods and markets (e.g. list of importers and exporters); support for small and medium-sized enterprises to participate in overseas exhibitions and to acquire international certifications; building overseas labour service platforms to assist the Chinese people working abroad; export fairs held by China Foreign Trade Centre under MOFCOM; consultation services offered by the China Council for the Promotion of International Trade (CCPIT), and the International Market Exploration Fund managed by MOFCOM and MOF, to promote SMEs' participation in overseas exhibitions.

### **(3) MEASURES AFFECTING PRODUCTION AND TRADE**

#### **(i) Taxation and tax incentives**

##### **(a) Overview**

167. China's tax revenue increased steadily during the review period (Table III.7). China applies the same taxation to domestic and foreign-funded enterprises (FIEs), except for transitional

<sup>151</sup> Export & Credit Insurance Corporation (2010), p.11.

<sup>152</sup> Total short-term credit insured in 2010 amounted to US\$154.33 billion, compared with US\$9.65 billion in medium- and long-term credit insured (Export & Credit Insurance Corporation, 2010, pp. 15 and 18).

<sup>153</sup> Export & Credit Insurance Corporation (2010), p. 13.

<sup>154</sup> WTO document WT/TPR/M/230/Add.1, 22 February 2011, p. 355.

<sup>155</sup> WTO document WT/TPR/M/230/Add.1, 22 February 2011, p.105.

arrangements for preferential policies to FIEs under the previous Law on Income Tax of Enterprises with Foreign Investment and Foreign Enterprises.<sup>156</sup>

**Table III.7**  
**Tax revenue, 2007-11**  
(¥ billion and %)

	2007	2008	2009	2010	2011
<b>Total government revenue (¥ billion)</b>	5,132.2	6,133.0	6,851.8	8,310.2	8,972.0
Central government (%)	54.1	53.3	52.4	51.1	51.1
Local government (%)	45.9	46.7	47.6	48.9	48.9
<b>Tax revenue (¥ billion)</b>	4,562.2	5,422.4	5,952.2	7,321.1	7,929.1
Central government (%)	57.8	57.1	56.1	55.3	55.2
Local government (%)	42.2	42.9	43.9	44.7	44.8
<b>Indirect taxes (% of total tax revenue)<sup>a</sup></b>	73.8	72.5	74.0	75.8	76.0
Consumption (excise) tax <sup>b</sup> (% of total tax revenue)	4.8	4.7	8.0	8.3	8.2
Value-added tax <sup>c</sup> (% of total tax revenue)	33.9	33.2	31.0	28.8	29.5
Consumption tax and VAT collected at the border (% of total tax revenue)	13.5	13.6	13.0	14.3	14.2
VAT and consumption tax rebates for exports (% of total tax revenue)	-12.4	-10.8	-9.8	-9.1	-9.2
Tariffs (% of total tax revenue)	3.1	3.3	2.5	2.8	2.7
Business tax (% of total tax revenue)	14.4	14.1	15.1	15.2	15.1
Agriculture-related taxes (% of total tax revenue)	3.2	3.1	..	..	..
<b>Direct taxes (% of total tax revenue)<sup>d</sup></b>	26.2	27.5	26.0	24.2	24.0
Enterprise income tax (% of total tax revenue)	19.2	20.6	19.4	17.5	17.4
Individual income tax (% of total tax revenue)	7.0	6.9	6.6	6.6	6.6
<b>Total government expenditure (¥ billion)</b>	4,978.1	6,259.3	7,630.0	8,987.4	10,022.0
Central government (%)	23.0	21.3	20.0	17.8	17.0
Local government (%)	77.1	78.7	80.0	82.2	83.0

.. Not available.

a Indirect taxes are defined as all taxes except direct taxes.

b Not including the excise tax collected at the border on imports.

c Not including the VAT collected at the border on imports.

d Direct taxes are defined as enterprise income tax and individual income tax.

Source: National Bureau of Statistics of China (2010), *China Statistical Yearbook 2010*; Ministry of Finance online information. Viewed at: [http://szs.mof.gov.cn/zhengwuxinxi/gongzuodongtai/201102/t20110201\\_436195.html](http://szs.mof.gov.cn/zhengwuxinxi/gongzuodongtai/201102/t20110201_436195.html) (in Chinese) and [http://gks.mof.gov.cn/guokusi/zhengfuxinxi/tongjishuju/201002/t20100205\\_269099.html](http://gks.mof.gov.cn/guokusi/zhengfuxinxi/tongjishuju/201002/t20100205_269099.html) (in Chinese); and WTO Secretariat calculations.

168. During the period under review, China has continued to adopt various tax reforms, with a view to lowering tax burdens (and thereby encourage consumption), broadening the tax base, simplifying its tax system, enhancing tax collection, and making it more neutral between domestic and foreign enterprises. For example, from 1 December 2010, foreign-invested enterprises, overseas enterprises, and foreign individuals must pay city maintenance and construction tax, and educational surcharges (the same as domestic businesses and individuals)<sup>157</sup>, which they used to be exempt from. Data provided by the authorities indicate that in 2011, revenue from the city maintenance and

<sup>156</sup> For details of the transitional arrangements, see the Notice of the State Council on the Implementation of the Transitional Preferential Policies Concerning Enterprise Income Tax (Guo Fa 2007/39).

<sup>157</sup> See the Interim Provisions on the Collection of Education Surcharges (Guo Fa 50/1986) and the Decision of the State Council on Amending the Interim Provisions on the Collection of Educational Surcharges (Order of the State Council No. 448) for the details of education surcharges.

construction tax increased by ¥59 billion and revenue from educational surcharges increased by ¥25 billion; the amount paid by foreign-funded enterprises totalled ¥85 billion in 2011.

169. On 1 January 2012, the Vehicle and Vessel Tax Law and the Regulations on the Implementation of the Vehicle and Vessel Tax Law entered into force, and the Interim Regulations on Vehicle and Vessel Tax were abolished. The present reform of the vehicle and vessel tax legislation involves mainly that the tax on passenger vehicles will be levied at seven rates, according to different engine displacement. These tax rates range from ¥60 to ¥5,400 per vehicle, and preferential tax rates are in place for vehicles and vessels that conserve energy or use new energy; the reform stipulates that administrative departments of, *inter alia*, vehicle and vessel registration and ship inspection organizations must assist tax authorities in the administration of vehicle and vessel tax collection by providing relevant information of vehicles and vessels (Table AIII.4).

170. Since 2011, preferential taxes have been granted on energy-management contract projects for eligible energy services companies, in accordance with the Notice of the Ministry of Finance and the State Administration of Taxation on Issues Concerning the Value-added Tax, Business Tax and Enterprise Income Tax Policies for Promoting the Development of the Energy Services Sector (Cai Shui 110/2010). Energy services companies that meet prescribed conditions on contract-based energy management projects are exempted from the business tax and the value-added tax.

171. China introduced a reform of the resource tax, charged on crude oil and natural gas, as a pilot programme in Xinjiang on 1 June 2010, followed by western China on 1 December 2010. The main content of the resource tax reform is to impose *ad valorem* taxes on petroleum instead of specific taxes (applied previously); the new tax rate is 5% of the sales price; preferential rates are provided to thickened oil, high pour point oil, high-sulphur gas, and other oil and gas products. Based on experience in the pilot reform, the State Council revised and promulgated the Interim Regulations of the People's Republic of China on Resource Tax on 30 September 2011, to implement the reform at the national level. The revised Interim Regulations of the People's Republic of China on Resource Tax entered into force on 1 November 2011.

172. Since 28 January 2011, real estate tax has been imposed, as a pilot programme, in Shanghai and Chongqing on sales of residential houses within five years after purchase. In Shanghai, the real estate tax is imposed on houses newly purchased (and on second or subsequent houses) by local resident households and houses newly purchased by non-local resident households at the rate of 0.4% or 0.6%, on the basis of the transaction prices. The real estate tax in Chongqing is imposed on single commercial buildings (including stock houses) and newly purchased high-end houses owned by individuals at the rate of 0.5%, 1% or 1.2%, on the basis of the transaction prices.

(b) Indirect taxes

173. Indirect taxes, including import duties, VAT, consumption tax, business tax, city maintenance tax, tonnage tax (for ships), resource tax, and tobacco leaf tax, account for most of China's tax revenues (76% in 2011, up from 74% in 2009).<sup>158</sup>

*Value-added tax*

174. China's main indirect tax is its value-added tax (VAT) (which, excluding tax collected at the border, accounted for 29.5% of tax revenue in 2011, down from 31% in 2009); the revenue is shared

---

<sup>158</sup> Indirect taxes are defined here as all taxes but the enterprise income tax and the individual income tax.

75:25 between the Central and local governments (except the revenue collected from imports, which is received by the Central government). VAT is levied at a standard rate of 17% and a lower rate of 13% on certain items. For small-scale tax payers<sup>159</sup>, VAT is charged on 3% of their gross sales. Farmers selling their produce directly are exempt from VAT provided their operations are small scale; the authorities state that the purpose of the exemption is to ease administration. Exporters are entitled to VAT rebates, but the VAT is often not fully rebated (section (2)(iv)). VAT paid on fixed assets (including machines, means of transport, tools and appliances related to production, and operation with a service life of more than 12 months) is credited against VAT on the final product.<sup>160</sup>

#### *Consumption tax*

175. China's "consumption tax", which is essentially an excise, is levied on certain domestically produced products as well as imports thereof. Consumption tax is rebated fully on exports, except where the product is not eligible for rebate (i.e. the VAT refund rate is 0) (Table AIII.5). Since 2010, there has been no change in the consumption tax. On 1 January 2009, China suspended the collection of consumption tax on aviation kerosene.

#### *Business tax*

176. Business tax is applied to domestic taxable services, transfers of intangible assets, and sales of immovable property, all of which are excluded from VAT. The business tax on imported services is collected when the organizations or individuals receiving the services are within mainland China. The revenue is for the use of local governments, except for taxes collected from railways, headquarters of banks, and insurance companies. Business tax rates on imported entertainment activities are determined by provincial governments within a range of 5-20%; other business tax rates are set at 3% or 5% on business turnover.

177. On 1 January 2012, China started to conduct a pilot reform of collecting VAT instead of sales tax in some industries in Shanghai.<sup>161</sup>

#### (c) Direct taxes

178. Direct taxes accounted for 24% of total tax revenue in 2011, down from 26% in 2009.<sup>162</sup> Revenues from enterprise income tax and individual income tax are shared 60:40 between the Central and local governments.

#### *Enterprise income tax*

179. Enterprise income taxes apply equally, at the statutory rate of 25%, to FIEs and domestic enterprises. A transition period is in place for tax incentives already granted to FIEs, as a result of a reform of the enterprise income tax system in accordance with the Enterprise Income Tax Law, which

<sup>159</sup> Taxpayers with total sales of less than ¥0.5 million engaged in the production of goods or taxable services, or those with total sales of less than ¥0.8 million in wholesaling or retailing.

<sup>160</sup> Capital goods such as small passenger vehicles, motorcycles, and yachts are excluded, and are subject to consumption tax.

<sup>161</sup> Notice of the Ministry of Finance and the State Administration of Taxation on Issuing the Pilot Program for Collecting VAT instead of Sales Tax (Cai Shui 110/2011), and Notice of the Ministry of Finance and the State Administration of Taxation on the Pilot Program of Collecting VAT instead of Sales Tax in Transportation and some Service Industries in Shanghai (Cai Shui 111/2011).

<sup>162</sup> Direct taxes are defined here as the sum of the enterprise income tax and the individual consumption tax.

entered into force in January 2008. FIEs that were established before 16 March 2007 (when the new Law was issued) and subject to a 15% income tax rate were subject to income tax at 18% in 2008, 20% in 2009, 22% in 2010, and 24% in 2011, and will be subject to the statutory rate of 25% in 2012. FIEs that were subject to an income tax rate of 24% before 2008 began to pay 25% from 2008. FIEs that were benefiting from the "two-year exemption followed by a three-year half deduction" or the "five-year exemption followed by a five-year half deduction" tax holidays, retain the tax holidays until they expire.<sup>163</sup>

#### *Individual income tax*

180. China's individual income tax is payable on worldwide income for Chinese residents, and on income earned in China by non-residents.

181. As a result of the reform of individual income tax, which entered into force on 1 September 2011, the progressive income tax rates on salaries and wages currently range from 3% to 45%, with seven different rates (previously the range was 5% to 45% with nine different rates). The current standard threshold for payment of individual income is ¥3,500 per month (previously ¥2,000 per month). Foreign expatriates receive an additional allowance of ¥1,300 per month (i.e. ¥4,800 threshold). For individual industrial and commercial households, income from their production or business operations is taxed at rates ranging from 5% to 35%, with deductions for relevant costs and fees.<sup>164</sup> A flat rate of 20% applies to other income, including royalties, interest, dividends, incidental income, and income from property renting (i.e. rentals). Since 9 October 2008, interest income from bank deposits has been temporarily exempted from individual income tax.

#### (d) Tax incentives

182. Tax incentives accorded in China include enterprise income tax rate reductions or exemptions and VAT reductions.

183. Under the Enterprise Income Tax Law, incentives are given to enterprises investing in less developed regions, such as western China, and for investment in activities encouraged by the Government, such as agriculture, environmental protection, renewable energy, software and integrated circuits industries, and securities investment and fund development. Enterprises engaging in high-tech and new-technology activities are subject to an enterprise income tax at 15% (instead of the statutory 25%); if such enterprises were established in SEZs or Shanghai Pudong New Area on or after 1 January 2008, they are exempt from income tax for two years from the year in which revenue from production and business operation is first derived, and subject to 12.5% (i.e. half of the standard statutory rate) in the third to the fifth years.

184. Small and medium-sized enterprises (SMEs) may benefit from, *inter alia*, lower enterprise income tax and lower VAT. Small-scale, low-profit enterprises meeting certain requirements pay enterprise income tax at 20%.<sup>165</sup> For small enterprises with taxable income below ¥30,000 in 2010,

<sup>163</sup> Where an FIE was entitled to such a tax holiday, but the tax holiday had not commenced due to accumulated losses, it would start benefiting from the tax holiday from 2008. State Council Notice (No. 39, 2007) on the Implementation of the Transitional Preferential Enterprise Income Tax Policies.

<sup>164</sup> On 1 September 2011, the amount of deductions for relevant costs and fees of individual industrial and commercial households was raised from ¥2,000 per month to ¥3,500 per month (¥42,000 per year).

<sup>165</sup> Small-scale, low-profit enterprises are: industrial enterprises whose total assets are less than ¥30 million, with annual taxable income below ¥0.3 million, and with less than 100 employees; or other enterprises whose assets are less than ¥10 million, with annual taxable income lower than ¥0.3 million, and with less than 80 employees.

their taxable income is reduced by half. With a view to reducing burdens on small-scale, low-profit enterprises, since 1 January 2012 (effective until 31 December 2015), enterprise income tax has been imposed at 20% on 50% of taxable income of small-scale and low-profit enterprises with an annual taxable income not higher than ¥60,000. Small-scale tax payers are subject to VAT at 3%; they are subject to simplified procedures (e.g. not requiring invoice).<sup>166</sup>

185. Preferential tax treatment, in terms of lower rate enterprise income tax, previously granted to firms located in special economic and high-tech development zones, is being grandfathered. After the transition period, there will no preferential tax treatment for enterprises in these zones.<sup>167</sup>

186. The Government has not undertaken any cost-benefit analysis of these tax incentives.

(e) Transfer pricing

187. China's taxation regarding transfer pricing is based on relevant regulations in Chapter 6 of the Law on Business Income Tax (or Enterprise Income Tax Law), Chapter 6 of the Regulations on the Implementation of the Enterprise Income Tax Law, Article 36 of the Tax Collection and Administration Law, Articles 51 to 56 of the Implementing Rules of the Tax Collection and Administration Law, the Implementing Rules of Special Taxation Adjustment (for trial implementation) (Guo Shui Fa 2/2009), as well as Article 9 of the tax agreements signed by China and relevant countries. Article 41 of the Law on Enterprise Income Tax stipulates that business transactions between enterprises and their affiliates that are deemed to reduce the taxable income or income of such enterprises and their affiliates and that are not in compliance with the arm's-length principle are subject to the Law. In this case, the taxation authority has the right to make an adjustment in accordance with reasonable methods. The Regulations on the Implementation of the Enterprise Income Tax Law further sets out details of the arm's-length principle and reasonable methods for transfer pricing.

(f) Bilateral agreements on avoidance of double taxation

188. China had signed 96 agreements on avoidance of double taxation by the end of June 2011. In the period between 2010 and 2011, China concluded or updated such agreements with Finland, Malta, Syria, and Zambia.

**(ii) Subsidies and other government assistance<sup>168</sup>**

(a) General features

189. The use of subsidies and other government assistance appear to be an important feature of China's trade policy making. However, because of the limited information made available to the Secretariat, it is difficult to confirm this. In general, very few details are available on China's

<sup>166</sup> Small-scale taxpayers are those with total sales of less than ¥0.5 million engaged in the production of goods or taxable services, or those with total sales of less than ¥0.8 million in wholesaling or retailing.

<sup>167</sup> According to the applicable laws and regulations on income tax on enterprises prior to the implementation of the 2008 Law on Enterprise Income Tax, a transition period may be given to enterprises that enjoy regional tax preferences after 2008 in accordance with Article 57 of the Law on Enterprise Income Tax and the provisions stipulated in the Notice of the State Council on the Implementation of the Grandfathering Preferential Policies for Enterprise Income Tax (Guo Fa 39/2007).

<sup>168</sup> The use of the term "subsidies" in this report is not confined to the definition provided in Article 1 of the Agreement on Subsidies and Countervailing Measures.



subsidies and other government assistance, particularly at the sub-central level, on their type and size, the financial outlays involved, and the objectives of the programmes and their results.

190. Government assistance to business is granted at the central and sub-central (e.g. provincial) levels. The main instruments of support are direct grants, subsidized loans, and tax benefits, which include exemption or reduction of value-added tax, enterprise income tax, and import duties.

191. In many cases, this assistance is implemented on the basis of circulars issued by the State Council (on its own or jointly with relevant ministries and agencies), which announce policy guidance (e.g. the medium- and long-term plans) or sector-specific industrial policies. Such circulars usually do not provide details of assistance, but indicate which level of the government (central or sub-central) will finance the programmes. When a programme is financed mainly by the central government, sub-central governments may provide facilities and other supplementary support. For example, under the "torch programme", aimed at promoting new- and high-technologies<sup>169</sup>, the central government provides qualified projects with, *inter alia*, tax benefits and financial assistance, and the authorities at the local level provide supplementary financial assistance.

192. China's latest notification to the WTO on subsidies (2009 notification) contains information on assistance to businesses established in various sectors or regions (Table AIII.6).<sup>170</sup> It lists programmes providing government assistance at the central government level between 2005 and 2008; no information regarding subsidy programmes provided by local governments has been provided.<sup>171</sup> In many cases, there are no precise figures on the magnitude of subsidies provided by the government, many of which are in the form of tax benefits. China's 2009 notification has not yet been reviewed in the Committee on Subsidies and Countervailing Measures.

193. An economic stimulus package announced in November 2008, involving ¥4 trillion (12.7% of 2008 GDP) for investment in the economy in 2009-10, was implemented between 2008 and 2010. A large part of the package was to be implemented through increased bank lending; ¥1.18 trillion of the package was to come from the central government budget. No information was made available to the Secretariat on disbursement in 2009 and 2010, the beneficiary sectors or indications, or the terms of repayment (if any).

194. During the period under review, programmes described in the industrial revitalization plans adopted in 2009 for ten sectors were implemented (see section (iii) below). No details on the budget allocated to and actually disbursed on these programmes was made available to the Secretariat.

(b) Assistance to the energy sector and to undertakings aimed at environmental protection

195. The National Development and Reform Commission (NDRC) issued a National Medium- and Long-Term Development Plan for Renewable Energy in September 2007 with a view to

---

<sup>169</sup> China's national torch programme is managed by the Ministry of Science of Technology, in accordance with the Administration Measures for National Torch Programme Projects (in Chinese). Viewed at: <http://202.205.177.9/edoas/website18/54/info3354.htm>; see Chapter II(4)(iii) and Chapter IV(4)(i) for the details of high-technology industries.

<sup>170</sup> WTO document G/SCM/N/155/CHN and G/SCM/N/186/CHN, 20 October 2011. The document notes that the notification is transparency oriented; it does not prejudge the legal status of the notified programmes under GATT 1994 and the SCM Agreement, the effects under the SCM Agreement, or the nature of the programmes themselves.

<sup>171</sup> China's previous subsidy notification was submitted in April 2006, covering the period between 2001 and 2004.

promoting renewable energy (e.g. wind power, solar power, hydro power, biomass power, geothermal power, and ocean power). The Plan provides for guaranteed purchase by distributors (national or regional power grids)<sup>172</sup> of electricity generated from renewable energy), and a Special Fund for Development of Renewable Energy has been established since 2007 to provide grants to energy conservation projects; no information on the size of the Fund was made available to the Secretariat. Construction projects for electricity generation from renewable energy benefit from subsidized loans.<sup>173</sup>

196. The manufacture of parts and components of wind power generation equipment is assisted by grants, rebates on import duties, and local component requirements. The duration and the scope of the assistance are not clear to the Secretariat. Some measures, such as grants from the Special Fund for the Industrialization of Wind Power Equipment and import duties rebate, were abolished in 2009.<sup>174</sup>

197. Under the Golden Sun Demonstration Project<sup>175</sup>, which aims to provide assistance for construction projects of solar power generation, construction investment may receive grants up to 50% for power generation and distribution and up to 70% for projects in remote regions not covered by the national power grid.<sup>176</sup> Grants are also accorded to projects to build solar power panels for buildings in urban and rural areas.<sup>177</sup>

198. It would appear that there are complementary assistance programmes for renewable energy at the sub-central government level. No detailed information about these programmes was made available to the Secretariat.

(c) Assistance to the automotive sector

199. In the face of the global economic recession, an Industry Revitalization Plan for the Automotive Sector was adopted for the period 2009-11. Consumers, *inter alia*, in rural areas received financial assistance when they purchased new vehicles; assistance was also extended for scrapping old automobiles. The authorities note that this programme was abolished on 1 January 2011.

---

<sup>172</sup> See the revised Law on Renewable Energy (effective 1 April 2010), and the Administration Measures on Power Grid Enterprises' Full Purchase of Electricity Generated by Renewable Energy (State Electricity Regulatory Commission Decree 2007/25) (in Chinese). Viewed at: [http://www.serc.gov.cn/zwgk/jggz/200802/t20080220\\_4704.htm](http://www.serc.gov.cn/zwgk/jggz/200802/t20080220_4704.htm).

<sup>173</sup> The State Development Planning Commission (SDPC) and the Ministry of Science and Technology (MOST) Joint Circular on Issues Concerning Further Support to Renewable Energy Development (in Chinese). Viewed at: <http://www.crein.org.cn/paperfiles/paper/state-document/SDPC/002.htm>.

<sup>174</sup> WTO document G/SCM/N/155/CHN and G/SCM/N/186/CHN, item 26. Ministry of Financial Circular Cai Shui 2009/55 states that the measures on import duties rebate in MOF Circular Cai Shui 2008/36 was abolished on 1 July 2009.

<sup>175</sup> Ministry of Finance Circular Cai Jian 2009/129, 23 March 2009. Viewed at: [http://www.gov.cn/zwgk/2009-03/26/content\\_1269258.htm](http://www.gov.cn/zwgk/2009-03/26/content_1269258.htm).

<sup>176</sup> To be eligible for the assistance, projects must, *inter alia*, be selected in a regional implementation programme for the Golden Sun Demonstration Project, and each individual project's capacity must be less than 300kW.

<sup>177</sup> To be eligible, each individual project's capacity must not be less than 50kW. Grants at the rate of ¥20/W are accorded to projects deemed to integrate opto-electronic parts into building materials or construction parts. Grants at the rate of ¥15/W are accorded to projects deemed to integrate opto-electronic parts into the surface of buildings. For details, see Interim Administration Measures for Fiscal Subsidy Fund for Optoelectronic Application Buildings (in Chinese). Viewed at: [http://www.gov.cn/zwgk/2009-03/26/content\\_1269258.htm](http://www.gov.cn/zwgk/2009-03/26/content_1269258.htm).

200. In 2009, the central government started to provide lump sum grants to consumers who bought new energy-saving or new-energy cars listed in a promotion catalogue.<sup>178</sup>

(d) Assistance to small and medium-sized enterprises

201. The Government accords financial assistance to small and medium-sized enterprises (SMEs); this includes grants, subsidized loans, and capital investment to the enterprises.<sup>179</sup>

202. The Development Fund for SMEs provides them with grants or subsidized loans for projects that SMEs invest in. Assistance up to ¥3 million is provided for each individual project invested. Government assistance for interest payment should not exceed 2 years.

203. A Special Fund for the Establishment of Service System for SMEs provides financial assistance to institutions that provide SMEs with services, including training, management consulting, and helping SMEs to start a business. A Fund for SMEs International Market Exploration provides SMEs with financial assistance for their international marketing activities; the assistance includes grants covering the cost of attending exhibitions, accreditation fees for quality management system, environment management system or for the product.

204. Enterprises making low profits receive preferential tax treatment.<sup>180</sup>

(e) Other assistance

205. The authorities issued a number of circulars related to China's export brands.<sup>181</sup> It would appear that the measures described in those circulars have been abolished; some incentives appear to exist at the sub-central level, mainly cash awards, for locally registered enterprises to apply for famous brand recognition. It was not clear to the Secretariat whether all measures at the sub-central level have been abolished along with the abolition of measures at the central level.

206. China notified a number of measures to assist research and development; most of them involved preferential tax treatment.

207. Regarding regional development, enterprises in the western regions engaging in "encouraged" industries receive a preferential income tax rate (15%). It would appear that enterprises established in the old industrial base of north-eastern China are exempt from unpaid tax incurred before 31 December 1997.<sup>182</sup>

208. Foreign direct investment and foreign-invested enterprises received preferential tax treatment until the end of 2007, except for "grandfathering" measures (Chapter II(4)(i)). Since 1 January 2008, high- and new-technology industries have been subject to a preferential enterprise income tax rate

---

<sup>178</sup> Ministry of Finance Circular Cai Jian 2010/219, effective 26 May 2010. Lump sum grants ranging from ¥3,000 to ¥60,000 are granted depending on the model of cars.

<sup>179</sup> WTO document G/SCM/N/155/CHN and G/SCM/N/186/CHN, 21 October 2011, items 46-49.

<sup>180</sup> WTO document G/SCM/N/155/CHN and G/SCM/N/186/CHN, 21 October 2011, item 28.

<sup>181</sup> Related to these, the United States, Mexico, and Guatemala requested consultations with China with regard to certain measures offering grants, loans, and other incentives to enterprises in China (WT/DS387, WT/DS388, and WT/DS390). The Chinese authorities note that these disputes have been settled bilaterally.

<sup>182</sup> MOF Circular 2006/17, effective 6 December 2006.

(15%, instead of the standard rate of 25%); high- and new-technology industries established in certain special economic zones and some other areas receive preferential tax treatment.<sup>183</sup>

209. For agriculture, China adopts domestic support measures including direct payments, insurance programmes, input subsidies, and internal price supports (Chapter IV(1)).

**(iii) Industrial policies**

210. Industrial policies remain important aspects of the Government's policies to "guide" the allocation of resources. During the period under review, no changes were made to the 2009 "industrial policy" programmes that identified ten sectors (nine manufacturing) most affected by reduced external demand due to the global crisis.<sup>184</sup>

211. Under the 2009 programme, sector-specific policies were issued to boost development of the ten sectors. The major measures include: lowering the taxes levied on enterprises, for example, by adjusting VAT rebate rates; providing preferential loans or other financial assistance to enterprises in these industries to encourage, *inter alia*, innovation. The Government also aims to consolidate industry structures by encouraging mergers and acquisitions. Tax policies China adopted under the industrial revitalization plans for ten sectors included adjustments of the VAT rebate on exports of certain products, and reduction of the purchase tax for certain passenger cars.<sup>185</sup> During the period under review, value-added tax rebate rates were not adjusted in favour of exporters. Financial supports provided under the industrial revitalization plans for ten sectors are mainly those to promote direct consumption, including subsidies for home appliances going to the countryside, automobiles and motorbikes to the countryside, and "old for new" household appliances. The authorities maintain that commercial banks in China follow market principles when providing loans.

**(iv) Price controls**

212. Price controls are used to regulate the cost of certain goods and services. They are established under the Pricing Law, and are set by the Government price-management bodies, namely the NDRC at the central level and by the Bureau of Commodity Pricing in each province.

213. Price controls are applied to commodities and services deemed to have a direct bearing on the national economy and people's livelihood. Price controls are implemented in accordance with an NDRC notice 11 (2001)<sup>186</sup>, through "government prices" and "government guided prices"; the difference between the two price categories is whether to set a fixed price or a certain range within which prices could fluctuate.

214. The authorities state that criteria used to calculate government prices or government guidance prices are: "average social costs", the supply and demand situation, and "needs of national economy, social development, and social endurance". In addition, consideration is given to the limitations on consumers' purchasing power. As the cost and price of some of these variables, such as normal production costs and purchasing power, may vary from province to province, there may be a variation

<sup>183</sup> WTO document G/SCM/N/155/CHN and G/SCM/N/186/CHN, 21 October 2011, items 11-13.

<sup>184</sup> Nine manufacturing sectors (iron and steel, automobiles, shipbuilding, petrochemical industry, textiles and clothing, light industry, non-ferrous metals, equipment manufacturing, electronics and information industry); and one services sector (logistics).

<sup>185</sup> WTO document WT/TPR/M/230/Add.1, 22 February 2011.

<sup>186</sup> NDRC online information (in Chinese). Viewed at: [http://www.sdpc.gov.cn/zcfb/zcfbl/zcfbl2003pro/t20050707\\_27540.htm](http://www.sdpc.gov.cn/zcfb/zcfbl/zcfbl2003pro/t20050707_27540.htm) [4.10. 2011].

in the price set by different provinces; this is especially the case for "social goods" such as water, gas, and electricity. The methodology for setting prices is the same across provinces.

215. Government prices are applied to the State's key reserve materials (grain, cotton, sugar, silkworm cocoons, crude oil, processed oil, and chemical fertilizer)<sup>187</sup>, and items subject to state monopoly or oligopoly (e.g. tobacco leaf, salt, explosives for civilian use, drugs on medical insurance, teaching materials, certain types of refined oil products, natural gas, water supply by hydro projects directly under the administration of the Central Government and by inter-provincial hydro projects, military goods, some transportation services, basic postal services, and basic telecommunications services). Government guided prices are applied to grain, vegetable oil, processed oil, silkworm cocoons, and cotton. The list of goods and services subject to government prices and government guided prices has not changed since January 2009.<sup>188</sup>

216. At the central level, the NDRC is in charge of price controls in respect of, for example, key reserve materials of the State, natural gas, electric power, important transport (such as rail and civil aviation), and post and telecom services.<sup>189</sup> Health-related services, and passenger transport by road are subject to price controls by provincial governments.<sup>190</sup>

217. In addition, minimum procurement prices for rice and wheat remain in place for main grain-producing areas (seven provinces for rice, and six provinces for wheat) (Chapter IV(1)(ii)).

**(v) State-owned enterprises, private enterprises, and corporate governance**

218. Enterprises may be grouped into: state-owned enterprises<sup>191</sup> (SOEs), collectively owned enterprises, joint-stock enterprises, "domestic private" enterprises, individual businesses (sole proprietorships), and foreign-invested enterprises (FIEs). Under the "guidance" of the Government, *inter alia*, FIEs, whose productivity is usually higher, have been encouraged owing to their more advanced technology, or better sales channels abroad.

219. SOEs have traditionally benefited from better access to capital than domestic private enterprises, although the authorities emphasize that this is due, *inter alia*, to historical reasons and the size of enterprises, and that the Government has always supported the development of enterprises of all ownership structures equally.

---

<sup>187</sup> Designated SOEs stockpile these commodities as required by the State, but their purchase is at market prices. When claiming losses from the Ministry of Finance, these SOEs may refer to government guided prices. These settlement prices extend only to products held by the State as its reserves.

<sup>188</sup> The Notice on Reforming Pricing Mechanism of Fertilizers (Notice 268/2009), issued by NDRC and MOFCOM in January 2009, eliminated price controls on fertilizers.

<sup>189</sup> Other products subject to price controls at the central level are: state-monopolized tobacco, edible salt, civil explosive equipment, some fertilizers, some key medicines, educational materials, water-resource projects subordinated to the Central Government or constructed in more than one province, and military materials.

<sup>190</sup> Prices of freight transport by road, and waterway transport are determined by the market. Other prices controlled by local governments are: thermal power, water resources (apart from those subject to price controls by the Central Government), medical services, education, selling prices and rents of residential apartments and homes for the elderly.

<sup>191</sup> SOEs include wholly state-owned enterprises and state-controlled (through equity shares) enterprises.

(a) Reform of state-owned enterprises

220. In accordance with the State-Owned Asset Law, which sets out legal requirements for, *inter alia*, transfer/management of state-owned assets, the central level State-Owned Asset Supervision and Administration Commission (SASAC) mainly manages government assets and engages in reform of central-level SOEs; and local level SASACs manage and engage in reform of local-level SOEs. The number of central-level non-financial SOEs fell from 129 in December 2009 to 120 in August 2011; these SOEs are, on average, much bigger than domestic private enterprises, and larger than their foreign counterparts. The total value of state-owned assets in SOEs was about ¥68.6 trillion in 2010, up from ¥53.5 trillion in 2009. The share of SOEs in China's industrial output was 27% in 2010.<sup>192</sup>

221. Mergers/closures during the review period reduced the number of China's SOEs (Table III.8). The authorities consider that SOEs in some sectors (e.g. chemicals, coal, electric power, and automobiles) were particularly in need of reform due to, *inter alia*, inferior technology, heavy pollution, excess-capacity or outdated management.

**Table III.8**  
**Number of enterprises, 2008-10**

	2008	2009	2010
SOEs	568,793	498,176	457,820
Collective-owned enterprises	856,677	756,060	647,858
FIEs: equity joint ventures	85,932	81,466	79,537
FIEs: contractual joint ventures	13,360	11,992	11,054
FIEs: wholly foreign-owned enterprises	188,777	190,276	197,497
Domestic private enterprises	6,574,171	7,401,539	8,455,158

Source: Data provided by the Chinese authorities.

222. Some SOEs were also corporatized and/or listed on stock-exchanges. At the end of September 2011, 1,047 SOEs were listed on the exchange in Shanghai and Shenzhen, accounting for 44.7% of companies listed. According to the authorities, about 99% of the listed SOEs had completed or were in the process of the reform of non-tradeable share conversion by the end of May 2011 (Table III.9). The originally non-tradeable shares will be traded on stock exchanges after a lock-up period following completion of non-tradeable share conversion. The SASAC intends to diversify the ownership structure of SOEs that do not meet requirements for listing, by inviting private investment, including foreign investment, in SOEs' equities.

223. In 2010, China Securities Regulatory Commission (CSRC) launched a specific campaign for "resolving problems of horizontal competition and related transactions".<sup>193</sup> In the campaign, the CSRC simplified its case review procedure to support partially listed companies to realize full listing through M&A or encouraged issuance of additional shares. The campaign selected 136 companies as

<sup>192</sup> World Bank (2012).

<sup>193</sup> "Horizontal competition" is where the principal business of a listed company is identical or similar to that of the controlling shareholders of the company. Through SOEs' corporatization and listing on stock exchanges, a large number of listed SOEs are actually the divested "good assets" of SOE holding groups. Hence, they may face horizontal competition with their parent SOE companies or controlling shareholders. "Related transactions" include transactions between a parent company and subsidiaries or between companies that are controlled directly or indirectly by a third party. Related transactions may involve issues of transfer pricing, cover-up loss, and profit fabrication or manipulation.

the key objects. The authorities consider that 92 of the 136 companies have resolved the problems of horizontal competition.

**Table III.9**  
**Tradeable and non-tradeable shares of companies listed in China, 2008-10**  
(Billion unless otherwise specified)

	2008	2009	2010
<b>Total (billion)</b>	<b>1,890.012</b>	<b>2,060.626</b>	<b>2,698.449</b>
Number of tradeable shares	696.497	1,420.019	1,944.215
A shares <sup>a</sup>	669.676	1,392.871	1,916.047
B shares <sup>b</sup>	26.821	27.148	28.168
Number of non-tradeable shares	1,193.515	640.607	754.234
Number of converted shares <sup>c</sup>	71.219	189.605	330.404
Number of disposal of converted shares <sup>d</sup>	8.701	12.581	10.446
Converted shares as a percentage of non-tradeable shares (%)	5.97	29.60	43.81
Disposal of converted shares as a percentage of converted shares (%)	12.22	6.64	3.17
Tradeable shares as a percentage of total shares (%)	36.85	68.91	72.05

a A shares are shares issued by joint-stock companies registered in China and listed on the domestic stock exchanges, with face value denominated in RMB, and traded in RMB by domestic companies, institutions, organizations or individuals (excluding investors from Hong Kong, China; Macao, China; and Chinese Taipei).

b B shares are shares issued by joint-stock companies registered in China and listed on the domestic stock exchanges, with face value denominated in RMB, but traded in U.S. dollars on the Shanghai Stock Exchange and in HK dollars on the Shenzhen Stock Exchange.

c Converted shares are shares released from originally non-tradeable shares through the conversion programmes. After the conversion programme, the originally non-tradeable shares will become tradeable on the A-share market, but there is a lockup period of 1 to 3 years before those converted shares are actually traded on the market.

d Disposal of converted shares are converted shares actually sold off on the market after the lockup period.

Source: CSRC (2010), *China Securities and Futures Statistical Yearbook*.

224. The dividend amount payable by SOEs to the Government (in terms of percentages of net profit) was increased on 1 January 2011.<sup>194</sup> For SOEs in natural resources, dividend payments were increased to 15% of net profits; for SOEs in the "general competitive sectors", to 10%; and others pay 5%. Since 1 January 2011, 652 SOEs have been added to the list of SOE paying dividends (SOEs in the financial services and telecommunication sectors are not on the list). This expansion is expected to reduce the amount of retained earnings, and thus reduce the amount of corporate savings of SOEs.

225. The NDRC, in line with the SASAC, supports national champions and promotes the reform of key industries, such as automobiles and steel, via industrial policies to improve the competitiveness of the dominant SOEs.<sup>195</sup>

226. SOE dominance is to be maintained in industries related to "vital interests of national economy", and to national security.<sup>196</sup> These industries include: industries regarding national security, important and large-scale infrastructure and vital mineral resources; industries providing vital public products and services; and major enterprises in "pillar industries" and high and new

<sup>194</sup> Ministry of Finance Circular Cai Qi 2010/392 on Improvement to Certain Issues about Operation Budget of State-Owned Assets, promulgated on 23 December 2010.

<sup>195</sup> OECD (2009b), Chapter 3, p. 124.

<sup>196</sup> See, for example, Article 7 of the Anti-Monopoly Law, the Circular on Deepening the Reform of Economic Regime in 2010, the State Council's Opinions on Encouragement of and Guidance to Healthy Development of Private Investments, and the 12<sup>th</sup> Five-Year Plan.

technology industries. In other areas, China intends to promote state-owned capital to retreat "appropriately from general competitive sectors".<sup>197</sup> A recently published joint-research report by the World Bank and the Development Research Centre of China's State Council argues that the industries and sectors that must maintain SOE dominance in China are too broadly defined, and suggests limiting the range of industries and sectors. The report also suggests that China define a more clear state-ownership policy regarding the disposal of SOEs' non-tradeable shares, and private participation through SOE equity diversification.<sup>198</sup>

227. Despite all the reforms, SOEs, still tend to benefit from lower cost of and better access to capital than non-public-sector enterprises.

(b) Non-public-sector enterprises

228. In China, enterprises in the non-public sector include domestic private enterprises (including individual businesses) and foreign invested enterprises (FIEs).<sup>199</sup> According to the authorities, domestic private enterprises and FIEs are treated equally, i.e. they enjoy equal market access, equal corporate income tax, and other administrative measures.

229. Domestic private enterprises have developed rapidly despite various entry barriers and financial constraints, in particular in sectors where SOEs retreated, and in the eastern coastal provinces.<sup>200</sup> At the end of 2010, there were more than 8 million private enterprises. In addition to contributing to productivity gains from more intensive competition, the private sector has become a major part of China's exports. In 2010, gross exports by Chinese private enterprises exceeded US\$450 billion, accounting for more than 30% of China's total exports, and more than double the gross exports of SOEs.

230. The State Council's Certain Opinions on Encouraging and Guiding the Sound Development of Private Investment (also known as 36-clauses on Private Investment, or new State Council's 36-clauses)<sup>201</sup>, is an operational document for the State Council's Certain Opinions on the Guidelines on Encouraging and Supporting the Development of the Non-Public Economy (also known as 36-clauses on Non-public economy, or old State Council's 36-clauses), issued in 2005. The new 36-clauses further stipulates and details policies and provisions on specific scopes, approaches, and policy support for private capital access to the sectors laid out in the old 36-clauses.

231. In addition to granting access to the sectors in which SOEs are dominant, it "encourages" domestic private firms to participate in the reform and restructure of some SOEs. Detailed measures to promote market access of private sectors, in accordance with the new 36-clauses, have not yet been published.<sup>202</sup> Measures related to the new 36-clauses on private access to the sectors in which SOEs are dominant are not applicable to FIEs or foreign investors.

---

<sup>197</sup> See the State Council's General Office Circular on the Guidance Opinions about Promoting the Adjustment of State-owned Assets and the Restructuring of State owned Enterprise (Guo Ban Fa 2006/97); and Section 2.2 of the State Council Circular on Deepening the Reform of Economic Regime in 2010.

<sup>198</sup> World Bank (2012), pp.117-120.

<sup>199</sup> For a more detailed description of the ownership structure of enterprises in China, please see WTO (2006), pp. 127-139; WTO (2008), pp. 91-99; and WTO (2010), pp. 54-58.

<sup>200</sup> See OECD (2010b), Chapter 4.

<sup>201</sup> Guo Fa 2010/13.

<sup>202</sup> Interview with Chen Yong Jie, Director of Research, All China Federation of Industry and Commerce. Viewed at: <http://news.sohu.com/20100414/n271489535.shtml>; and Seminar on new-36 clauses. Viewed at: <http://politics.people.com.cn/GB/1026/11643265.html>.



232. Private enterprises may face a less favourable environment than SOEs, such as administrative barriers and related parties' refusal to deal. For example, it would appear that the state-owned aviation fuel company offers less generous terms to service private passenger carriers, and the computerized reservation system denies access by private carriers.<sup>203</sup>

233. In general, domestic private enterprises, in particular private small and medium-sized enterprises (SMEs), face more financial constraints than SOEs and FIEs. To respond to this situation, state-owned commercial banks and joint-stock commercial banks are required to establish a system specifically to provide financial services to SMEs.<sup>204</sup>

234. Parallel to the establishment of the SME Board, Growth Board, and ChiNext Board in the capital market, a pilot programme of collective corporate bonds was introduced. Eligible credit guarantee institutions for SMEs are exempted from business tax.

235. Preferential tax treatment was granted to SMEs during the review period. For small-sized low-profit enterprises with annual taxable income below ¥30,000 (inclusive), the taxable income amount was calculated as 50% of the income, and the corporate income tax was collected at the rate of 20% for the period 1 January 2010 to 31 December 2011; the threshold for tax reduction is up to ¥60,000 (inclusive) for 2012 to 2015. The tax rate was lowered, on 1 January 2009, to 3% (from 6%) for small-scale industrial taxpayers, and 4% for small-scale commerce taxpayers.

236. Other funding opportunities for SMEs to apply for financial support include the Specific Fund for SMEs Development, the Innovation Fund for Technology-Oriented SMEs, and the Specific Subsidy Fund for Services System for SMEs.

#### **(vi) Competition and consumer protection policy**

237. During the period under review, several provisions have been adopted on the implementation of reviews of concentrations of undertakings (anti-trust reviews), and reviews of foreign companies' mergers and acquisitions of domestic companies relating to "national security" (national security reviews), with a view to increasing transparency. Provisions on anti-trust reviews include: the Measures on the Examination of Concentration of Undertakings, the Measures on the Notification of Concentration of Undertakings (both with effect from 1 January 2010), and the Interim Rules on Assessment of Impact of Concentration of Undertakings on Competition (effective 5 September 2011), all by MOFCOM. Relevant provisions on national security reviews include the State Council Circular on the Establishment of National Security Review on Acquisitions of Domestic Enterprises by Foreign Investors (effective 5 March 2011), and Rules on Implementing National Security Review Mechanism over Mergers and Acquisitions of Domestic Enterprises by Foreign Investors (effective 1 September 2011).

238. With a view to increasing transparency of measures against abuse of dominant positions, abuse of administrative monopoly, and price fixing, China has adopted: NDRC Provisions on Prohibition of Price Monopoly, SAIC Provisions on the Prohibition of Monopoly Agreements, SAIC Provisions on the Prohibition of Abuse of Market Dominant Positions, SAIC Provisions on the Suppression of Abuse of Administrative Power to Eliminate and Restrict Competitive Conducts (since

---

<sup>203</sup> *New York Times*, 29 August 2010. Viewed at: <http://www.nytimes.com/2010/08/30/world/asia/30china.html?pagewanted=all>.

<sup>204</sup> See State Council's Opinions on Further Promoting the Development of Small and Medium-Sized Enterprises, and Opinions on Further Working on Financing Services of Small and Medium-Sized Enterprises.

1 February 2011), and Revised Provisions on the Administrative Punishment of Price-related Violations (since 4 December 2010).

(a) Legislative and institutional framework

239. China's laws and provisions concerning competition include the Anti-Monopoly Law (AML), the Anti-Unfair Competition Law<sup>205</sup>, the Price Law, the Law on Bid Invitation and Bidding or Tendering, and the Rules on Acquisition of Domestic Enterprises. The AML does not take precedence over other competition-related legislation.

240. The policy objective of China's competition legislation, as stated in Article 1 of the AML, is to: safeguard fair market competition; improve economic efficiency; protect the interests of consumers and of the public; and promote the healthy development of the socialist market economy.

241. The AML targets particularly three types of "monopolistic conduct": conclusion of monopoly agreements; abuse of dominant market positions; and concentration of enterprises that have (or are likely to have) the effect of eliminating or restricting competition.

242. Under Article 7 of the AML, the State protects the "legitimate business operations" of firms in industries that are vital to the national economy and national security where the state-owned economy is dominant, and in the industries of exclusive trading. It also states that the State will supervise and regulate the above-mentioned firms' operations and the prices of the goods and services they supply, to protect consumers' interests and to promote technology progress. This is apparently a compromise between industrial policies and competition policy.<sup>206</sup>

243. Enforcement of competition legislation in China is shared by three agencies, coordinated and "guided" by the Anti-Monopoly Commission under the State Council (Table III.10).<sup>207</sup> The Anti-Monopoly Bureau of the MOFCOM is responsible for anti-trust reviews. The Price Supervision and Anti-Monopoly Bureau of the National Development and Reform Commission is the authority over price-related violations of the rules against monopoly agreements and abuse of market dominance and of administrative power. The Anti-Monopoly and Anti-Unfair Competition Enforcement Bureau of the State Administration for Industry and Commerce (SAIC) enforces the Anti-Unfair Competition Law on issues related to monopoly agreements, abuse of market dominance, and abuse of administrative powers (excluding price-related monopolies). China continued to develop its capacity on competition enforcement during the review period (Box III.1).

244. In addition to administrative measures, parties injured by violations of anti-monopoly provisions may take their cases to the courts.

245. The Anti-Monopoly Law covers all sectors of the economy (except agriculture<sup>208</sup>) and all types of enterprises. The AML applies to monopolistic operations within China, as well as to activities outside the territory of China that have "eliminative or restrictive effects" on competition in China's domestic market. This extra-territoriality is to be achieved mainly through international cooperation on competition policy.

---

<sup>205</sup> According to the authorities, the revision of anti-unfair competition law is at the final stage of the legislative process.

<sup>206</sup> WTO (2010).

<sup>207</sup> The General Office of the Anti-Monopoly Commission is situated in MOFCOM.

<sup>208</sup> The AML is not applicable to associated or concerted conduct by agricultural producers and rural economic organizations in their business activities related to agricultural products.

**Table III.10**  
**Competition legislations and enforcement**

Enforcement agency	Legislation, regulations, administrative rules	Function/authority	Enforcement delegation
MOFCOM	AML 1. Measures on the Examination of Concentration of Undertakings 2. Measures on the Notification of Concentration of Undertakings 3. Interim Rules on Assessment of Impact of Concentration of Undertakings on Competition 4. Interim Provisions on National Security Review over Acquisitions of Domestic Enterprises by Foreign Investors 5. Interim Provision on Investigations of Un-notified Concentrations of Undertakings	1. Anti-trust review 2. National security review 3. General Office for the National Anti-Monopoly Commission	No delegation
NDRC	AML; Price Law 1. NDRC Provisions on Prohibition of Price Monopoly 2. State Council Provisions on the Administrative Punishment of Price-related Violation	1. Sanction against price-related monopolistic agreements 2. Sanction against pricing manipulation	Anti-Monopoly Enforcement may be delegated to the authorities at the level one below the provincial level Price Law enforcement may be exercised at the local level
SAIC	AML; Anti-Unfair Competition Law 1. SAIC Provisions on the Prohibition of Monopoly Agreements 2. SAIC Provisions on the Prohibition of Abuse of Dominant Market Positions 3. SAIC Provisions on the Suppression of Abuse of Administrative Power to Eliminate and Restrict Competitive Conducts 4. SAIC Provisions on Investigating and Handling Cases Concerning Monopoly Agreements and Abuse of Dominant Market Positions	1. Sanction against non-price-related monopolistic agreements; 2. Regulation on non-price-related market dominant abuses; 3. Sanction against administrative monopolies; 4. Regulator for tendering and bidding activities	Anti-Monopoly enforcement may be delegated to the authorities at the provincial level, but no further down. Cases must be registered at SAIC before delegation Anti-Unfair Competition enforcement may be exercised at local level

MOFCOM: Ministry of Commerce.

NDRC: National Development and Reform Commission.

SAIC: State Administration of Industry and Commerce.

AML: the Anti-Monopoly Law.

Source: WTO Secretariat.

246. China participates in competition-policy-related activities of APEC, OECD, and UNCTAD. China also engages in exchanges and cooperation with competition authorities in, *inter alia*, the European Union, Japan, the Republic of Korea, and the United States. MOFCOM jointly with NDRC and SAIC signed the MOU on Anti-monopoly/Antitrust Cooperation with the U.S. Department of Justice and Federal Trade Commission in July 2011.

### Box III.1: Competition enforcement in China

The Price Supervision and Anti-Monopoly Bureau of the NDRC is the regulatory authority on all price-related anti-competition behaviour; thus, any activities to fix or attempt to fix either prices or quantities of commodities are under the jurisdiction of the NDRC. In the NDRC Provisions on Procedures of Administrative Enforcement of Prohibition of Price Monopoly (NDRC Decree 2010/8), relevant provincial-level authorities (including provincial DRCs), delegated by NDRC, are the anti-price-monopoly enforcement within their administrative territories. The provincial DRCs are allowed to delegate investigation to local price supervision departments one level below themselves.

Price fixing and quantitative restrictions, such as cartels, are prohibited in accordance with the AML and the Price Law. The NDRC investigated and convicted a number of cases of price violation during 2010 and 2011, including: a case involving Unilever, on the ground of abuse of dominant position to disturb the order of market prices; the price cartel organized by the Paper Industry Association of Fuyang, Zhejiang Province; the price cartel for rice noodles in Guangxi Autonomous Region; and a case involving Carrefour, on the ground of price fraud. Although cartels of "concerted movements" to raise prices are prohibited, it is not clear to the Secretariat whether calls by any entities for "self-disciplined pricing" (e.g. not to increase prices rather than usually not to decrease prices) are regarded as *de facto* price fixing, and are regulated accordingly. Data on price-related competition enforcement were not made available to the Secretariat.

Some research argues that the boundary of jurisdiction between the NDRC and SAIC is not clear in some anti-competitive cases. For instance, under the AML, predatory pricing is the responsibility of the NDRC, whereas the SAIC is responsible under the Anti-Unfair-Competition Law; according to the authorities, neither law takes precedence over the other. The situation is similar for jurisdiction over loyalty rebates. However, according to the authorities, the NDRC and SAIC have clearly-divided functions in the enforcement practice.

The Anti-Unfair-Competition and Anti-Monopolies Enforcement Bureau of the SAIC is responsible for enforcing all non-price-related violations and other "unfair-competition" activities, such as formation of agreements or abuse of dominant position leading to refusal to deal, or imposition of unreasonable conditions, and administrative monopolies. In investigating monopoly agreements and abuse of dominant position, the SAIC may delegate the investigation to the provincial AIC on a case-by-case basis, but provincial AICs are not allowed to delegate the case to a lower level.

The SAIC investigated (November 2009) and convicted (July 2010) the Concrete Committee of the Lianyungang Association of Construction Materials and Construction Equipment on the ground of organizing its members to form a monopoly agreement for market segmentation, and refusal to deal. Five members and the Committee itself were fined a total of ¥730,723.19.

One case against administrative monopoly has arisen since the promulgation of the AML and the SAIC provisions on administrative monopoly. The AIC of Guangdong Province in June 2011 corrected a monopolistic intervention from a local government to the GPS service market. It was also reported that Taiyuan Railway Bureau was taken to court on 13 September 2011 for alleged administrative monopoly behaviour.

Some researchers argue that there is an inherent shortcoming in the enforcement of the Anti-Monopoly Law in China, which seems to place more emphasis on administrative measures than judicial litigation. When the authorities intervene in any anti-competition activity on behalf of the public, they are likely to face the dilemma of being the complainant and judge at the same time. The situation with administrative monopolies may be more serious. Some researchers argue that the courts base their findings mainly on examining the procedures rather than substance, which was evident in the case being rejected when the AQSIQ was sued in 2008 for damages from administrative monopolistic operations. Others argue that not sharing the vision of competition across agencies may create more tension between competition policy and industrial policies (e.g. creating national champions), in particular in the transition period when major SOEs still have strong connections with their industrial regulators. The authorities, however, argue that anti-monopoly enforcement involves special expertise; the authorities also note that a good coordination mechanism has been established between the industrial regulators and competition agencies to ensure the balance between competition policies and industrial policies.

*Source:* Article 3 of the SAIC Provisions on the Procedures for Monopoly Agreements and Abuse of Dominant Market Positions Investigations (SAIC Decree 2009/42); Unirule Institute of Economics (2010), "Why is the Anti-Monopoly Law Difficult to Enforce?", *China Reform*, Vol. 2010 (12), [in Chinese]; Bai, Guixiu (2008), "The Nature of Administrative Monopoly and its Remedies -- Ideas from the first case of the Anti-Monopoly Law of China", *Journal of Political Science and Law Es*, Vol. 2008 (6), [in Chinese]; Li, Junfeng (2010), "The Chinese Competition Enforcement Structure in the Perspective of Industry Regulation", *Studies in Law and Business*, Vol. 2010 (2), [in Chinese]; Li, Rechean (2011), "Unravelling the Jurisdictional Riddle of China's Antitrust Regime", *Competition Policy International*, Vol. 2, February; Emch, A. (2011), "The antitrust enforcers' new year resolutions", *China Law & Practice*, February, pp. 20-24; China Competition Research Centre (2011), *China Competition Bulletin*, September; and WTO Secretariat.

247. China is not a member of the International Competition Network.<sup>209</sup> The authorities noted that there is no a clear timeline for China to consider to join the network.

(b) Monopoly agreements and dominant market positions

248. A number of implementation regulations for the Anti-Monopoly Law entered into effect on 1 February 2011, including the NDRC Provisions on Prohibition of Price Monopoly (NDRC Decree 2010/7), the SAIC Provisions on the Prohibition of Monopoly Agreements (SAIC Decree 2010/53), and the SAIC Provisions on the Prohibition of Abuse of Dominant Market Positions (SAIC Decree 2010/54).

249. On monopoly agreements, five types of horizontal agreements (those among competitors) and two types of vertical agreements (those among counterparties) are prohibited. Article 2 of SAIC Provisions on Monopoly Agreements states that monopoly agreements are prohibited whether written or verbal, or by "concerted practice" whereby several companies essentially coordinate behaviours even without explicit written or verbal agreement. There are several situations in which a particular agreement may be exempted, as set out in Article 15 of the AML<sup>210</sup>; however, no departmental rules provide quantitative criteria on how to identify whether a monopoly agreement may be exempted.

250. Industrial associations are prohibited from organizing or facilitating monopoly agreements among their members.<sup>211</sup> Violations are punishable by fines or de-registration of the association by the registration authority.

251. A dominant market position is defined as one that enables an enterprise to control price, output, and conditions in a relevant market or to control the entry into this market by other enterprises. Enterprises with a dominant market position are prohibited from, *inter alia*, selling products at unreasonably high prices or purchasing products at unreasonably low prices, and "without valid reasons", selling products at a price below cost, or tying products or imposing unreasonable trading conditions.

252. Dominant firms are prohibited from refusing to grant competitors access to an essential facility on "reasonable conditions".<sup>212</sup> Dominant firms are also prohibited from restricting customers,

---

<sup>209</sup> The International Competition Network (ICN) is a forum-like virtual organization for competition agencies of all kinds of jurisdictions. It was established in 2001 with 14 members, i.e. Australia, Canada, the EU, France, Germany, Israel, Italy, Japan, Korea, Mexico, South Africa, the UK, the U.S., and Zambia. There were 104 members as of November 2011. The ICN encourages the dissemination of antitrust experience and recommended practices, and the implementation of such practices, which facilitates more consistent enforcement across countries. The ICN develops consensus benchmarks for various competition enforcement operations, for example, benchmarks for merger notification, review procedures, and merger analysis are used among members voluntarily to reduce unnecessary delays in transnational merger cases.

<sup>210</sup> Exemptions apply if it can be demonstrated that an agreement is aimed at improving technology and R&D or ensuring legitimate interests in foreign trade and economic cooperation. The agreement also should prove it would not severely harm the competition in the relevant domestic market, and it would share the benefit generated from the agreement with consumers.

<sup>211</sup> Article 9 of the NDRC Provisions on Prohibition of Price Monopoly; Article 9 and Article 10 of the SAIC Provisions on the Prohibition of Monopoly Agreements.

<sup>212</sup> Reasonable conditions include whether the party requesting access can invest in and develop an alternative facility; how much its business depends on access to the facility; whether the dominant firm is able to grant access and to what extent such access could impact its own business.

without proper reasons, to trade with the dominant firm or firms designated by the dominant firms through the means of loyalty programmes such as discounts or rebates.<sup>213</sup>

#### *Administrative monopolies*

253. The Anti-Monopoly Law specifically prohibits "administrative monopolies".<sup>214</sup> In the SAIC's Provisions on the Suppression of Abuse of Administrative Power to Eliminate and Restrict Competitive Conduct (entered into effect on 1 February 2011, SAIC Decree 2011/55), administrative monopolies are defined as use of administrative powers to eliminate or restrict competition by administrative agencies at all levels as well as authorized organizations of public affairs management. Such abuses include compelling businesses to conclude monopoly agreements or to exercise dominant market power, and issuing rules that impede competition.<sup>215</sup> Similar provisions are set out in the NDRC Provisions on Prohibition of Price Monopoly with a focus on price-related violations. Statutory monopolies (or oligopolies) by SOEs are not classified as administrative monopolies.

254. SAIC Decree 2011/55 also prohibits business operators from implementing monopolistic agreements and abusing their dominant position "by means of administrative" decisions, delegation, or regulation.<sup>216</sup> If business operators' monopoly activities are caused by administrative means, measures prescribed in SAIC Decree 2011/53 (provisions on monopoly agreement) and SAIC Decree 2011/54 (provisions on market dominant positions) will be applied to the business operators that benefit from administrative monopoly, and remedies against such abuses are administrative. Thus, the competition enforcement authorities may call the situation to the attention of other administrative bodies, including local governments, and propose that they correct their actions. In the only case since the promulgation of the SAIC Provision on the Suppression of Abuse of Administrative Power to Eliminate and Restrict Competitive Conducts, the provincial government, in line with the provincial AIC proposal, corrected a violation by a government at the prefecture level.

255. In terms of judicial remedies, it was not clear to the Secretariat whether the Anti-Monopoly Law or the Administrative Litigation Law will be applied in the event of administrative monopoly. No case has been registered in the courts against administrative monopoly since promulgation of the AML.

#### (c) Mergers and acquisitions

##### *Anti-trust review*

256. Under Chapter 4 of the Anti-Monopoly Law, all merger transactions above a certain threshold<sup>217</sup> are subject to prior anti-trust review coordinated by MOFCOM.<sup>218</sup> Between 2008 and

<sup>213</sup> Proper reasons include to safeguard a product's quality and safety; to maintain the brand image or improve services; to be able to significantly reduce costs, improve efficiency; and share with customers the interests arising from the restricting activities of trading. Article 14 of the NDRC Provision on Prohibition of Price Monopoly.

<sup>214</sup> Article 8 and Chapter 5 of the Anti-Monopoly Law.

<sup>215</sup> Article 3 and Article 4 of SAIC Provisions on the Suppression of Abuse of Administrative Power to Eliminate and Restrict Competitive Conduct.

<sup>216</sup> Article 5 of SAIC Provisions on the Suppression of Abuse of Administrative Power to Eliminate and Restrict Competitive Conduct.

<sup>217</sup> See State Council Regulation on Notification Thresholds for Concentrations of Undertakings, State Council Decree 529, entered into force on 3 August 2008.

<sup>218</sup> Other agencies involved in merger reviews include SAIC, and sectoral regulators, i.e. CSSC, CBSC, CISC, MIIT, and CAAC. A transaction below the threshold might be required to be notified to authorities,

2011, MOFCOM received 382 cases for review, of which 371 were unconditionally cleared, 10 were cleared subject to conditions, and 1 case was rejected. Data on cases withdrawn by applicants were not made available to the Secretariat.

257. Three administrative rules were adopted, during the period under review, to clarify procedures for anti-trust reviews: the Measures on the Examination of Concentrations of Undertakings (MOFCOM Decree 2009/12) and the Measures on the Notification of Concentrations of Undertakings (MOFCOM Decree 2009/11) (both in effect 1 January 2010), and the Interim Provisions on Assessment of Impact of Concentrations of Undertakings on Competition (MOFCOM Announcement 2011/55) (in effect 5 September 2011).

258. In the process of review, MOFCOM may undertake hearings on market concentration on its own initiative or upon request from relevant parties. At the end of the review, the authorities may reject, approve, or approve with conditions the notified merger applications. In conducting merger reviews, the authorities must decide, within 30 days, whether a further review (2<sup>nd</sup>-stage review) is necessary.

259. Conditions attached to approved mergers as a result of anti-trust reviews may include: divestment of certain assets or business<sup>219</sup>; opening infrastructure (e.g. network or platform) to the public, licensing key technologies (including patented know-how), or ceasing exclusive agreements.<sup>220</sup>

260. In reviews of transnational M&As, MOFCOM may exchange information with competition authorities of other jurisdictions when it considers such exchange necessary.

261. In anti-trust reviews, MOFCOM assesses the impact of the concentration on competition, paying attention to control over and influence on the relevant markets. The assessment is focused on whether the concentration induces or strengthens the capability, motive, and feasibility of business operator(s) to exclude or restrict competition in the relevant markets or the associated markets along the value chain. The authorities state that the same criteria apply to all businesses, including SOEs.

262. The Herfindahl-Hirschman Index (HHI) and Concentration Ratios (CRs) are used in assessing the impact on competition of concentrations. However, the HHI and CRs are not always published.

263. Multiple concentration activities between the same players within a two-year period are considered as a single transaction whose value is the sum of turnover from the transactions. If the total transaction turnover is above the notification threshold, even if each individual action is below the threshold, the multiple concentration activities must be notified to the enforcement authorities and subject to anti-trust reviews.<sup>221</sup>

---

subject to discretion of the authorities, if a request is extended by a domestic competitor, department or association.

<sup>219</sup> On 5 July 2010, MOFCOM released the Interim Regulations for Implementing Divestures of Assets or Businesses during Concentrations of Business Operators (MOFCOM Announcement 2010/41, entered into force on 5 July 2010).

<sup>220</sup> Article 11, Measures on the Examination of Concentrations of Undertakings, MOFCOM Decree 2009/12.

<sup>221</sup> Article 7, Measures on the Notification of Concentrations of Undertakings, MOFCOM Decree 2009/11.

264. With a view to enhancing transparency, MOFCOM issued the Interim Provisions on Investigation of Un-notified Concentrations of Undertakings (in effect 1 February 2012). Under the Provisions, MOFCOM may initiate investigations on whether un-notified concentration activities are subject to anti-trust review; participants may face a fine up to ¥500,000 if the un-notified concentration activity requires clearance through anti-trust review; and MOFCOM may order participants to restore the pre-concentration business status.

*National security review*

265. Acquisitions of domestic enterprises by foreign investors are regulated by the Provisions on Mergers and Acquisitions of Domestic Enterprises by Foreign Investors, last revised in June 2009.<sup>222</sup> According to Article 31 of the Anti-Monopoly Law, acquisitions by foreign investors are subject to national security reviews in addition to anti-trust reviews, if the acquisitions are deemed to be related to national security.

266. The Circular on the Establishment of National Security Review on Acquisitions of Domestic Enterprises by Foreign Investors (Guo Ban Fa 2011/6), which entered into force on 5 March 2011, prescribes the scope of national security reviews. Activities subject to national security review are: defence related (i.e. acquisition of defence or defence-affiliated enterprises, and acquisition of enterprises locationally adjunct to defence facilities); and acquisition of and gaining control over enterprises related to national security in the sectors of key agricultural products, key energy and natural resources, key infrastructure, key transportation, and key machinery manufacturing.<sup>223</sup>

267. National security reviews are conducted by the Inter-Ministerial Joint Conference on National Security Review over Acquisitions of Domestic Enterprises by Foreign Investors. The Joint Conference is led by NDRC and MOFCOM. The secretariat of the Joint Conference is situated in MOFCOM.

268. Detailed procedures for carrying out national security reviews entered into force on 1 September 2011 as MOFCOM promulgated the MOFCOM Rules on Implementing National Security Review Mechanism over Mergers and Acquisitions of Domestic Enterprises by Foreign Investors (MOFCOM Announcement 2011/53) on 25 August 2011.

269. Foreign investors must apply to MOFCOM for national security reviews if the merger cases fell into the scope described in national security review mechanism. Other relevant ministries or agencies, industrial associations, enterprises in the same industry or enterprises along the value chain may also request MOFCOM to initiate national security reviews. Article 9 of the MOFCOM rules states that decisions on whether an M&A transaction falls within the scope of national security reviews depend on the substance and the actual impact of the transaction.

270. There are strict timelines for completing national security reviews. General reviews (1<sup>st</sup> stage) must be completed in 30 days. If an application passes the general review, it will not proceed to

---

<sup>222</sup> MOFCOM Degree 2009/6. M&As of domestic enterprises by foreign investors are defined as: (1) foreign investors' equity investment exceed 25% of a domestic company's registered capital; (2) FIEs set up by foreign investors in order to acquire and operate assets of domestic enterprises; or (3) acquisition by foreign investors of assets of domestic enterprises and setting up of FIEs based on the acquired assets.

<sup>223</sup> Gaining control over an enterprise by foreign investors means the share of equities held by all parties of foreign investors exceeds 50%; or the equity share held by foreign investors is large enough to significantly influence decisions of the annual general meeting of shareholders, and/or of the board of directors.



special review (2<sup>nd</sup> stage), and the acquisition activity continues. An application that fails to pass the general review will proceed to the stage of special review, which must be completed in 60 days.

271. National security reviews grant clearance to merger cases for any other administrative procedures including anti-trust reviews. Where a merger case is not cleared even if the merger activity proceeded, MOFCOM would, jointly with other relevant authorities, terminate the merger transaction or take action such as equity or asset transfer to eliminate the negative impact on national security caused by the merger activity.

272. Three cases have been taken to national security review since 5 March 2011.

### (vii) Intellectual property rights

#### *Overview*

273. In the 12<sup>th</sup> Five Year Plan, China announced its intention to adopt a "sustainable growth" model, with emphases on value-adding, innovation, and structural adjustment. The authorities consider that intellectual property is an essential element to realize this change.

274. In terms of the proportion of domestic use of the IP system, China is among the highest in the world. Applications for patents, utility models, trade marks, and industrial designs have increased substantially since 2004.<sup>224</sup> Despite the recent global economic slowdown, total patent applications in China increased by 25.2% between 2009 and 2010 (domestic applications grew by 26.4%), and trade mark applications increased by 29.1% (with domestic applications at 31.2%) (Table III.11).

275. The National Intellectual Property Strategy, announced by the State Council in June 2008<sup>225</sup>, established four medium-term goals for a five-year period between 2008 and 2013: a large-scale increase in "indigenous intellectual property rights"; a significant increase in the share of IP-intensive commodities; improvement in IPR protection; and an overall increase in awareness of intellectual property rights. In order to achieve the goal set out in the strategy, China provides a number of subsidies, including tax incentives, to R&D activities.<sup>226</sup> China ranked third in the world in terms of its resident patents-to-GDP ratio (26.6) and resident patents-to-R&D expenditure ratio (2.0) in 2008.<sup>227</sup> Such an increase in innovation can be expected, over time, to increase public awareness of the need to protect IPRs and to make effective use of the IP system as a tool for economic growth.

276. In June 2011, China announced the decoupling of the "indigenous innovative" products with the provisions of government procurement preferences (section (viii)).<sup>228</sup>

---

<sup>224</sup> See WIPO Statistical Country Profile: China. Viewed at: [http://www.wipo.int/ipstats/en/statistics/country\\_profile/countries/cn.html](http://www.wipo.int/ipstats/en/statistics/country_profile/countries/cn.html).

<sup>225</sup> State Council's Circular on Distribution of National Intellectual Property Strategy (Guo Fa 2008/18), issued on 5 June 2008 (in Chinese). Viewed at: [http://www.gov.cn/zwggk/2008-06/10/content\\_1012269.htm](http://www.gov.cn/zwggk/2008-06/10/content_1012269.htm). The Strategy also calls on sub-central authorities and industries to formulate and implement their own intellectual property strategies. By the end of 2010, 25 out of 32 provincial-level authorities (including autonomous regions and municipalities, excluding the Hong Kong SAR and the Macao SAR) had promulgated local intellectual property strategies or implementation plans for the strategy.

<sup>226</sup> WTO documents G/SCM/N/155/CHN, 21 October 2011 and G/SCM/N/186/CHN, 21 October 2011.

<sup>227</sup> WIPO (2010).

<sup>228</sup> Circulars issued by the Ministry of Finance. Viewed at: [http://www.gov.cn/zwggk/2011-06/30/content\\_1896559.htm](http://www.gov.cn/zwggk/2011-06/30/content_1896559.htm) [in Chinese].

**Table III.11**  
**Intellectual property rights applications, 2009-10**

	2009	2010	% increase	% of total
	Total			
<b>Patent applications</b>	<b>976,686</b>	<b>1,222,286</b>	<b>25.2</b>	<b>100</b>
Domestic	877,611	1,109,428	26.4	90.8
Foreign	99,075	112,858	13.9	9.2
<b>Inventions</b>	<b>314,573</b>	<b>391,177</b>	<b>24.4</b>	<b>32</b>
Domestic	229,096	293,066	27.9	74.9
Foreign	85,477	98,111	14.8	25.1
<b>Utility models</b>	<b>310,771</b>	<b>409,836</b>	<b>31.9</b>	<b>33.5</b>
Domestic	308,861	407,238	31.9	99.4
Foreign	1,910	2,598	36	0.6
<b>Designs</b>	<b>351,342</b>	<b>421,273</b>	<b>19.9</b>	<b>34.5</b>
Domestic	339,654	409,124	20.5	97.1
Foreign	11,688	12,149	3.9	2.9
<b>Patents granted</b>	<b>581,992</b>	<b>814,825</b>	<b>40</b>	<b>100</b>
Domestic	501,786	740,626	47.6	90.9
Foreign	80,206	74,199	-7.5	9.1
<b>Inventions</b>	<b>128,489</b>	<b>135,110</b>	<b>5.2</b>	<b>16.6</b>
Domestic	65,391	79,767	22	59
Foreign	63,098	55,343	-12.3	41
<b>Utility models</b>	<b>203,802</b>	<b>344,472</b>	<b>69</b>	<b>42.3</b>
Domestic	202,113	342,258	69.3	99.4
Foreign	1,689	2,214	31.1	0.6
<b>Designs</b>	<b>249,701</b>	<b>335,243</b>	<b>34.3</b>	<b>41.1</b>
Domestic	234,282	318,601	36	95
Foreign	15,419	16,642	7.9	5
<b>Trade mark applications (new)</b>	<b>830,488</b>	<b>1,072,187</b>	<b>29.1</b>	<b>100</b>
Domestic	741,763	973,460	31.2	90.8
Foreign	88,714	98,727	11.3	9.2
<b>Trade marks granted</b>	<b>837,643</b>	<b>1,349,237</b>	<b>61.1</b>	<b>100</b>
Domestic	737,228	1,211,428	64.3	89.8
Foreign	100,415	137,809	37.2	10.2

Source: Data provided by the Chinese authorities.

277. In order to coordinate implementation across relevant ministries and agencies, an Inter-Ministerial Joint Conference for the Implementation of National Intellectual Property Strategy was established in October 2008 (Chart III.5). The Conference is chaired by the Commissioner of the State Intellectual Property Office (SIPO).<sup>229</sup> The Conference has issued a Promotion Plan for the Implementation of the National Intellectual Property Strategy annually since 2009. Each annual promotion plan assigns detailed tasks to relevant authorities with a view to attaining the aims of the

<sup>229</sup> The National Intellectual Property Strategy Office has been designated an executive role for the Joint Conference. The Office is situated in the SIPO. The website of the Office (<http://www.nipso.cn/>) contains information (in Chinese) on China's intellectual property strategy at the national, regional, and industrial level.

national strategy. For 2011, the plan assigned 176 tasks<sup>230</sup> including: the launch of a national specific campaign on IPR protection, and revisions of the Trademark Law, the Copyright Law, and the Measures for Exercising Compulsory Licence as well as drafting Anti-Monopoly Guidelines for Abusive Use of Intellectual Property Rights.

278. A number of regulations and departmental rules on IPRs have been amended since China's previous Review, such as amendments to the Regulations on Implementing the Patent Law, to the Copyright Law, and to the Regulations on Customs Protection of Intellectual Property. China also promulgated the Interim Measures on Payment by Radio and TV Stations for Broadcasting Audio Products.

279. China launched a specific national campaign in November 2010 with a focus on cracking down on intellectual property rights infringement. The authorities expect the national campaign to become permanently institutionalized and a cabinet-level enforcement structure, led by vice-Premier, is to be established to coordinate IPR enforcement nationwide. "Political accountability" for IPR violations is to be increased at the provincial level<sup>231</sup>, to encourage better enforcement efforts.

280. China is a member of the World Intellectual Property Organization (WIPO), and a contracting party to various international conventions and treaties (Table AIII.7). At the end of 2010, China filed 12,296 applications through the PCT system, an increase of about 56% over 2009, while 1,928 applications were filed through the Madrid system.<sup>232</sup>

(a) Industrial property

*Patent*

281. The State Intellectual Property Office (SIPO), under the State Council, is in charge of patent administration nationwide. The State Patent Office, under the SIPO, is in charge of receiving patent applications and granting patents, while local IPR administrative offices are responsible for patent disputes.

282. Patent rights (for inventions, utility models, and industrial designs) are protected by the Patent Law (last amended in 2009)<sup>233</sup>; its Implementation Regulations (last amended in 2010)<sup>234</sup>, which in the last amendment adds provisions on national interest clearance (confidentiality examinations), and patents based on genetic resources, as well as elaborates details on compulsory licences, and administrative procedures for patents and utility models; and rules promulgated by the SIPO.<sup>235</sup> Patent rights are granted for 20 years from the date of filing for inventions, and 10 years from filing for utility models and industrial designs.

---

<sup>230</sup> Among 176 tasks in the 2011 Promotion Plan, 13 tasks have been identified as key tasks. General understanding is that key tasks are those that address immediate needs, are critical to how the Plan advances, and are expected to be completed within a short time-frame.

<sup>231</sup> Enforcement of IP rights in their regions will be taken into account for provincial officials' performance.

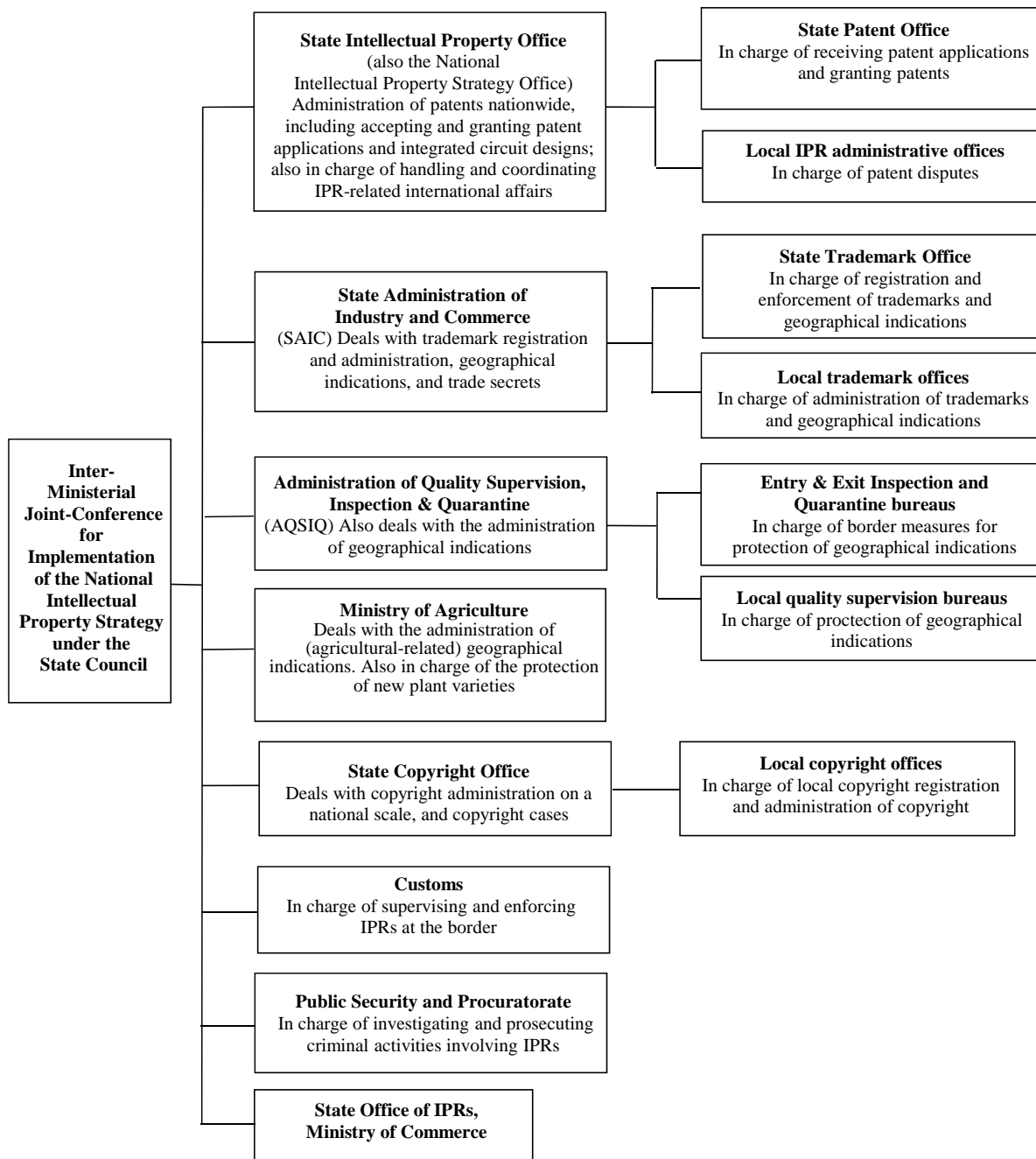
<sup>232</sup> WIPO statistics. Viewed at: [http://www.wipo.int/ipstats/en/statistics/country\\_profile/countries/cn.html](http://www.wipo.int/ipstats/en/statistics/country_profile/countries/cn.html).

<sup>233</sup> WTO documents IP/N/1/CHN/3, 15 December 2010 and IP/N/1/CHN/P/2, 21 December 2010.

<sup>234</sup> WTO documents IP/N/1/CHN/4, 24 August 2011 and IP/N/1/CHN/P/3, 26 August 2011.

<sup>235</sup> Departmental rules on patent-related issues are available (in Chinese) at: <http://www.sipo.gov.cn/zcfg/flfg/zl/bmgz/>.

**Chart III.5**  
**Structure of IPR administration and enforcement**



*Source:* WTO Secretariat, based on China National Intellectual-Property Strategy.  
Viewed at: <http://www.nipso.cn> [in Chinese]; and data provided by the Chinese authorities.

283. China's patent system is currently ranked second in the world in terms of applications. During the period under review, patent applications and grants continued to increase rapidly, in particular for utility models. In 2011, there were 1.6 million applications, up 34.5% from 2010. As increase in patent applications, there is a clear positive correlation between patent applications and patent invalidation requests in China.<sup>236</sup> The detailed data on patent applications and patent invalidation applications was not made available to the Secretariat.

284. Applications for invention patents are made to the SIPO. If it finds the application to be in conformity with the requirements of the Patent Law, it must publish the application within 18 months of the date of filing. The applicant must submit a request for substantive examination within three years of filing, otherwise the application is deemed to have been withdrawn; the SIPO carries out the substantive examination. The delayed substantive examination process is based on two considerations: first, it allows the applicant to withdraw the application if he or she considers it no longer necessary, thus saving them the cost of the fees; and second, it reduces the costs to the SIPO of unnecessary examinations. For inventions, patent rights are protected provisionally during the period from publication of the application to the grant of the patent.

285. Once the SIPO has decided to grant the patent, a notification is issued; the applicant must complete registration formalities within two months of receipt of this notification, including paying the registration, annual, and printing fees. If the applicant is unable to complete these formalities within the specified time, he/she is assumed to have relinquished his/her right to obtain the patent. The average time required to complete substantive examination for an invention patent was 24 months in 2010 (the latest year for which data were available).

286. Patent applications may be re-examined by the Patent Re-examination Board, which consists of technical and legal experts appointed by the SIPO and headed by the head of the SIPO. Under the Rules for the Implementation of the Patent Law (Article 62), if the Board finds that the SIPO's decision does not comply with the provisions of the Patent Law and its accompanying rules and regulations, it may revoke the decision and ask the SIPO to continue the patent examination. In 2010, the Patent Re-examination Board accepted 12,369 applications for re-examination, up 34.5% from 2009, among which 9,005 were concluded.

287. National-interest clearance, through a "confidentiality examination" is required before an application may be made for a foreign or international patent for an invention or utility model in which "substantial contents" of the technical solution were achieved within the Chinese territory.<sup>237</sup> However, in the current Implementation Regulations for the Patent Law, there is no definition of "substantial contents". The confidentiality examination must be carried out prior to any foreign or international applications for patent protection.<sup>238</sup> If application is made for foreign or international patent without the completion of confidentiality examinations, the application for domestic patent protection may be rejected.<sup>239</sup> There have been more than 76,000 applications for confidentiality

---

<sup>236</sup> WIPO (2010).

<sup>237</sup> Provisions in Article 8 of the Implementing Regulations on Patent Law. Article 7 of the Implementing Regulations states that patent authorities must follow the procedure for "confidential patents applications" if the authorities believe the inventions or utility models require confidentiality due to such inventions or utility models being involved in non-defence-related national security or of vital interest to the country.

<sup>238</sup> Applicants may apply for foreign or international patents if they do not receive, notification of a confidentiality examination from the authorities within 4 months. If the authorities carry out a confidentiality examination, the applicant may apply for foreign or international patents if they do not receive a decision of confidentiality from the authority within 6 months.

<sup>239</sup> Article 20 of the Patent Law.

examination as of 30 September 2011. Only one case failed the examination and was not approved to apply for foreign patent.

288. Clearance through a "confidentiality examination" is also required for inventions or utility models that result from R&D activities of national major projects. The units responsible for undertaking national major projects are "encouraged" to apply within the priority period for foreign patent rights or other IPRs in the countries that have arrangements with China.<sup>240</sup>

289. Indigenous intellectual property rights obtained from "national major projects"<sup>241</sup> must first be non-exclusively licensed within the territory of mainland China. If indigenous intellectual property rights are transferred or licensed to foreign parties, the transfer or licence is subject to the Regulation on the Administration of Technology Import and Export (revised in December 2010).

290. The amendment to the Implementing Regulations for the Patent Law included revised provisions on compulsory licensing; for example it gives the definition of "insufficiency" in Article 48 of the Patent Law.

291. A compulsory licence may be granted in the event of, *inter alia*, "national emergency", or "any extraordinary state of affairs", or "in the public interest". A compulsory licence may also be granted under certain circumstances for patented pharmaceutical products.<sup>242</sup> Moreover, a compulsory licence may be granted if the patent owner, without justification, has failed to "sufficiently" exploit patent rights for three years or uses the rights in a manner that eliminates or restricts competition. Under Article 73 of the Implementation Regulations of the Patent Law, "insufficiency" is when the manner or the scale of the patent exploited by its right-holders or licensees cannot satisfy the domestic demand for the patented products or patented know-how. The test of "without justification" is provided in the Paris Convention.

292. Article 48 of the Patent Law states that compulsory licences for patented inventions or utility models may be granted if the patent holders are convicted of restricting/limiting competition through abuse of their intellectual property rights.<sup>243</sup> Compulsory licences may also be granted upon the request of an injured party in addition to the remedy provided by the Anti-Monopoly Law (AML). However, the AML and its various affiliated implementation rules do not provide clear criteria for the

---

<sup>240</sup> The "priority period" is the duration of "priority". Among the contracting parties to the Paris Convention on the Protection of Industrial Property, under the principle of priority, an applicant who files an application for protection for an invention with one contracting party is deemed to have filed applications to other contracting parties on the same date as the first application, if the applications are filed within a given period of the filing of the first application.

<sup>241</sup> National major projects are projects in the 16 fields listed in the 2006 Medium and Long-term Plan for Science and Technology that must be completed within a certain period to push forward "core-technologies" and social and economic development. The Ministry of Science and Technology is the coordinator for these projects.

<sup>242</sup> The 2009 amendment to the Patent Law gives effect to the WTO General Council Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health and subsequent Decision on the Amendment of the TRIPS Agreement in providing for compulsory licensing to enable third parties to manufacture patented drugs for export to recipients under the WTO "paragraph 6" mechanism. Article 22 and Article 33 of the Measures for Exercising Patent Compulsory Licences stipulate the detailed administration on compulsory licensing of patented drugs.

<sup>243</sup> Article 53 of the Patent Law stipulates that compulsory licences should serve mainly for supplies to the domestic market, but this excludes compulsory licences granted on the ground of competition or of public health.

distinction between legitimate and abusive exercise of intellectual property. The authorities noted that Guidelines for Competition against Abusing Intellectual Property Rights are being drafted.<sup>244</sup>

293. The SIPO is the administrative agency for issues related to compulsory licencing. Patent right-holders will be notified of compulsory licence requests, in writing, if the SIPO accepts the request is valid. Patent right-holders must respond to the SIPO with comments within a designated period in order to challenge the granting of a compulsory licence.<sup>245</sup> The SIPO must also conduct open hearings upon the request of the applicant for a compulsory licence or from the patent right-holder.<sup>246</sup> Patent right-holders may pursue a lawsuit against the decision by the SIPO, within three months, with regard to granting or terminating compulsory licences.

294. China has not granted any compulsory licences since the entry into force of the Patent Law.

295. The current legislation on patents allows parallel imports.<sup>247</sup>

#### *Trade marks*

296. The State Trademark Office (TMO), under the State Administration of Industry and Commerce (SAIC), is responsible for the registration and administration of trade marks. Local enforcement authorities are responsible for administration of trade marks at the local level.

297. The TMO examined about 1.4 million trade mark applications in 2010. The authorities noted that trade mark registration takes 12 months (as of October 2010), down from 36 months in 2008; they expect it to be further shortened to 10 months by 2012.

298. Trade marks are protected under the Trademark Law (last revised in 2001), its Implementation Regulations (promulgated in 2002), and various rules issued by the SAIC.<sup>248</sup> In accordance with 2011 promotion plan for the IP strategy, the Trademark Law is being revised.<sup>249</sup> Trade marks are protected for ten years, renewable for ten years, indefinitely.

299. Trade marks must be registered with the Trademark Office to be protected under the Trademark Law. Foreign applicants must file applications in accordance with any agreements concluded between their country of origin and China, or any international treaty to which both are parties, or on the basis of reciprocity. Trade marks may be registered through an agent recognized or designated by the SAIC.

300. Under Article 13 of the Trademark Law, registration may be rejected and usage of a relevant mark is forbidden under the following circumstances: if the mark involves a copy, imitation, or translation of well-known brands that have not been registered in China for the same or similar goods and services, and such a copy, imitation, or translation easily creates ambiguity; and if the mark involves a copy, imitation, or translation of well-known brands that have been registered in China for

---

<sup>244</sup> Task Item 34 in the Promotion Plan for the National Intellectual Property Strategy '2011.

<sup>245</sup> The length of designated period varies by case.

<sup>246</sup> The hearings will include the compulsory licence applicant, the patent right-holder, and other relevant stakeholders. If related to national secrets, trade secrets, or privacy, the hearing will not be open to the public. In case of "national emergency", "extraordinary state of affairs", or "in the public interest", open hearing procedures for compulsory licence are not applicable.

<sup>247</sup> Article 69 of the Patent Law.

<sup>248</sup> For the rules related to trade mark administration in China, see: <http://sbj.saic.gov.cn/>.

<sup>249</sup> The draft revision was published for comments on 2 September 2011 on the websites of the China Legislative Information Network and the Chinese Central Government. The consultation ended on 8 October 2011. Viewed at: [http://www.gov.cn/gzdt/2011-09/02/content\\_1939013.htm](http://www.gov.cn/gzdt/2011-09/02/content_1939013.htm).

goods and services that are not deemed identical or similar to the goods and services in question, and such a copy, imitation, or translation may mislead the public and result in possible harm to the interests of the right-holders of the well-known brand.<sup>250</sup>

301. In its Rules on Recognition of and Protection over Well-known Brands (promulgated in April 2003), the SAIC defines "well-known brands" as trade marks that are widely known and enjoy a high reputation among the relevant public in China.<sup>251</sup> Well-known brands are recognized by the TMO or the Trademark Appeal Board.<sup>252</sup> Five factors are taken into account in recognizing well-known brands in administrative procedures, i.e. registration, review, and administration, and in civil litigation procedures: (1) the degree of knowledge of the brand in question by the public; (2) the duration of usage of the brand; (3) evidence of the publicity campaign for the brand in question, such as duration, intensity, and geographical areas of the campaign; (4) the protection record of the brand as a well-known brand; and (5) other relevant information.<sup>253</sup> Decision to recognize a trade mark as a well-known brand is made within six months of receipt of the application by the TMO.<sup>254</sup> As of end 2011, 3,187 trade marks had been recognized as well-known brands through trade mark administration, i.e. registration, review, and dispute settlements, among which 156 are owned by foreign enterprises or their subsidiaries in China.

302. There is a five-year period for appeal from registration of a trade mark wherein the prior right-holder or relevant stakeholder may request the Trademark Appeal Board to revoke the registered trade mark. For "abusive registration", well-known brand right-holders are not limited by the five-year period.<sup>255</sup>

303. Appeals against a decision by the Trademark Office to refuse registration may be made within 15 days from receipt of the notification, to the Trademark Review and Adjudication Board. If the decision taken by the Board is also unsatisfactory, legal proceedings may be instituted in the People's Court within 30 days of notification by the Board. There is no time limit within which the Board must make its decision.

304. The SAIC announced on 28 July 2011 that China intends to shorten the time required to complete the procedure for trade mark reviews and dispute settlement to 20 months. The SAIC also announced that trade marks that have not been used for three consecutive years will be revoked.<sup>256</sup>

305. The SAIC has started to enhance trade mark protection in e-commerce. An SAIC Circular of Opinions on Strengthening the Cross-Provincial Enforcement to Commodities Trading on Internet and its Related Services (Gong Shang Shi Zi 2011/11), issued on 27 May 2011, requires cross-provincial case investigation be completed within 30 days. According to the authorities, the SAIC is building an

---

<sup>250</sup> Article 31 of the Trademark Law and Article 34 of the revision draft of Trademark Law states that application for trade mark registration shall not harm the existing rights of others; in addition, abusive pre-emptive registrations are not allowed.

<sup>251</sup> According to Article 16 of TRIPS and Article 6 of Paris Convention, trade marks that have become well known in a particular market enjoy additional protection.

<sup>252</sup> Article 5 of the Implementation Regulations for Trademark Law.

<sup>253</sup> Article 14 of the Trademark Law. The Supreme People's Court issued a judicial Interpretation on Some Issues Concerning the Application of Law in the Trial of Cases of Civil Disputes Involving Well-Known Trademark Protection (came into effect on 1 May 2009), providing detailed guidelines for recognizing well-known brands in civil litigation.

<sup>254</sup> Article 8 of the SAIC Rules on Recognition of and Protection over Well-known Brands.

<sup>255</sup> Article 41 of the Trademark Law.

<sup>256</sup> The SAIC announced on 28 July 2011 that it would employ several measures to curb abusive registration of trade marks. Viewed at: [http://www.gov.cn/jrzg/2011-07/28/content\\_1915944.htm](http://www.gov.cn/jrzg/2011-07/28/content_1915944.htm).



e-commerce monitoring system, and is in the process of establishing a Procedure of Electronic-Evidence Gathering for Investigation on e-Commerce Violations. A joint government/industry programme between China and the United States against online sales of counterfeit physical products on the internet will launch in spring 2012.

306. The Interim Measures on Administration over Commodities Trading on the Internet and its Related Services (SAIC Decree 2010/49, entered into effect on 1 July 2010) requires that natural persons selling products and services on the internet trading platform must provide authentic information to the operator of the trading platform. Article 24 of the Measures requires the operator of the internet trading platform to take necessary actions against trade mark infringement. The operator is responsible for disciplining users of the platform, and is liable for any damage caused by misuse of the platform.

307. Parallel imports are not addressed in the legislation on trade marks, and it is not clear to the Secretariat whether they are prohibited/allowed. The authorities state that no case of parallel imports has been brought to their attention.

#### *Geographical indications*

308. Geographical indications (GIs) are currently regulated by the State Trademark Office, the AQSIQ, and the Ministry of Agriculture.

309. GIs may be registered as collective marks or certification marks with the TMO under the same procedure as for trade marks. Protection of registered GIs is the same as for other trade marks, i.e. ten-year protection, renewable for ten years, indefinitely.

310. As from 2005, GIs may also be registered with the AQSIQ. Once registered with the AQSIQ, these GIs are protected permanently. In addition, as from February 2008, GIs for agricultural products may be registered with the Ministry of Agriculture. Agricultural product GIs from foreign countries must be registered in China to be protected. Once registered, they are protected permanently.

311. GIs are protected under the Trademark Law and its Implementing Regulations. It was not clear to the Secretariat whether there is any coordination mechanism for enforcement against violation if GIs are registered with only one authority.

#### (b) Copyright and related rights

312. The National Copyright Administration of China (NCAC), under the State Council, administers copyright on a national scale. Local copyright registration and administration at the provincial level is carried out by local copyright administration offices.

313. Protection is granted under the Copyright Law (revised in 2010), its Implementing Regulation (last revised in 2010), and accompanying regulations.<sup>257</sup> Protection for cinematographic and

---

<sup>257</sup> These include, *inter alia*, the Regulations for the Protection of Computer Software, the Regulation on the Collective Administration of Copyright, and the Regulations on Protection of the Right of Communication through Information Network.

photographic works is for 50 years, and typographical designs for 10 years.<sup>258</sup> Protection for computer software is granted from the date on which its development was completed, and the term of protection varies.<sup>259</sup> Audio and video productions, broadcasting, and public performance are granted protection for 50 years from the first day of production, broadcasting, or performance.<sup>260</sup>

314. Copyright protection generally covers work by anyone regardless of whether and/or where the work is published.<sup>261</sup>

315. Promotion of genuine software used in government agencies and enterprises is a key task for IP protection in China.<sup>262</sup> A verification campaign on genuine software for government agencies was launched in 2010 to consolidate the achievement from the software legalization programme for government agencies between 2001 and 2005.<sup>263</sup> China aims to complete its software legalization programme at the provincial level by mid-2012, and at the prefecture and county level by 2013.

316. Parallel imports are not covered in the current copyright legislation, and the authorities maintain that they are not prohibited.

(c) Other IPRs

317. Since the previous Review of China, there has been no significant change to the legislation protecting other IPRs, including layout-designs of integrated circuits, plant varieties, and undisclosed information or trade secrets.

318. Layout-designs of integrated circuits are registered with and granted by the SIPO. They are protected for 10 years from the date of filing or the date of first commercial exploitation anywhere in the world, whichever expires earlier; the maximum duration of protection is 15 years from the date of creation. In special circumstances (such as national emergencies), or to remedy unfair competition practices, a "non-voluntary" licence may be issued to exploit a layout design. So far, no "non-voluntary" licences have been issued.

319. Plant varieties are protected for 20 years from the date of authorization of vines, forest trees, and ornamental trees, and 15 years for other plants. Applications for the protection of new plant varieties are made to the Ministry of Agriculture or the State Forestry Administration. Compulsory licences may be granted by the approval and examination authority for exploitation of the protected plant variety where it is in the national or public interest. No such compulsory licences have been granted.

---

<sup>258</sup> Article 21 of the Copyright Law specifies that cinematographic or photographic works are protected for 50 years after first publication; however, the work is not protected under this law if it is not published within 50 years of completion of its creation.

<sup>259</sup> Software copyright exists from the date on which its development is completed. For a natural person, protection is for the lifetime of the person plus 50 years. For software developed jointly by two or more persons, protection expires at the end of the 50<sup>th</sup> year after the death of the last surviving developer. Copyright belonging to a legal entity or other body is protected for 50 years from first publication; however, if it has not been published within 50 years of its development, it is not protected.

<sup>260</sup> Provision by Article 39, 42 and 45 of the Copyright Law (revised in 2010).

<sup>261</sup> Provision by Article 2 of the Copyright Law (revised in 2010).

<sup>262</sup> Task 51 of the Promotion Plan for National Intellectual Property Strategy 2011.

<sup>263</sup> According to the authorities, encouragement to use genuine software in government agencies has reached sub-central authorities to prefecture-level.

320. Undisclosed information and trade secrets are protected by, *inter alia*, the Criminal Law, the Anti-Unfair Competition Law, the Labour Law, and regulations issued in accordance with these laws. The SAIC is in charge of protecting trade secrets, while the public security agency is responsible for criminal investigation in cases involving severe damage or criminal activity related to undisclosed information or trade secrets. According to the Implementation of the Law of Drug Control, China protects test data and other data that are self-obtained, undisclosed, and submitted by manufacturers or sellers to obtain an approval for manufacturing or selling a drug that contains new chemical entities. No one may use such undisclosed test data and other data for improper commercial purpose. Within six years from the date the manufacturer or seller obtains the approval for manufacturing or selling the drug, the drug supervision and administrative authorities must not grant another approval to others who apply for approval using the same data. Similar protection for undisclosed data on agri-chemicals is provided by the Regulations on Administration of Agricultural Chemicals.

(d) Enforcement

321. During the last TPR of China, a number of its trading partners expressed concerns about the lack of effective enforcement of intellectual property rights, particularly at the regional and local levels. China was urged to step up its efforts in enforcing IPR protection, including greater and effective customs control and criminal prosecution.

322. Intellectual property rights in China are enforced by two means: administrative actions, and judicial measures. Administrative actions consist of mediation by the authorities, involving a large number of agencies. Judicial actions are taken through the public security authorities, procuratorial organs, and the courts (Table III.12).

**Table III.12**  
**Intellectual property enforcement, 2008-10**

	2008	2009	2010
<b>Cases dealt with by administrative actions</b>			
<b>Patents</b>			
Number of disputes (patent infringement disputes)	1,092	937	1,095
Number concluded	..	..	..
<b>Copyright</b>			
Number of disputes/administrative penalties	9,032	9,419	10,590
Number concluded	..	..	..
Imposition of fines (¥ million)	14.2	26.4	22.1
Cases transferred to judicial agencies	238	374	538
Business inspected	782,670	1,099,012	963,842
Illegal operation units banned	36,601	16,727	61,995
Underground dens detected	694	862	727
<b>Trade marks</b>			
Number of disputes	56,634	51,044	56,034
Trade mark infringements	47,045	43,596	48,548
Other	9,589	7,448	7,486
Cases transferred to judicial agencies	137	92	175
Value of fines (¥ million)	467.4	405.5	460.0
<b>Cases handled by Customs at the border</b>			
Value (¥ million)	294.8	452.3	277.1
<b>Cases dealt with by courts</b>			
First instance civil IPR cases accepted	24,406	30,626	42,931

Table III.12 (cont'd)

	2008	2009	2010
First instance civil IPR cases closed	23,518	30,509	41,718
Patent cases accepted	4,074	4,422	5,785
Patent cases closed	4,132	4,524	5,298
Trade mark cases accepted	6,233	6,906	8,460
Trade mark cases closed	6,068	6,975	8,153
Copyright cases accepted	10,951	15,302	24,719
Copyright cases closed	10,255	15,180	24,138
Technical contract cases accepted	623	747	670
Technical contract cases closed	636	717	694
Unfair competition cases accepted	1,185	1,282	1,131
Unfair competition cases closed	24,406	1,287	1,176
Other IPR cases accepted	23,518	1,967	2,166
Other IPR cases closed	4,074	1,826	2,259
Second instance civil IPR cases accepted	4,132	5,340	6,522
Second instance civil IPR cases closed	6,233	5,492	6,481

.. Not available.

Source: Information provided by the authorities.

### *Border enforcement*

323. Customs is in charge of enforcement of intellectual property rights at the border. The revised Regulations on Customs Protection of Intellectual Property entered into effect on 1 April 2010.

324. Intellectual property right-holders, i.e. holders of trade mark, copyright and related rights, may register their rights in Customs records for border protection. Each registration, subject to approval, is valid for ten years, and renewable. Right-holders may apply to Customs for detention of suspected infringing goods, regardless of whether they have registered their rights in the record.<sup>264</sup> Counterfeit goods will be seized by Customs. Article 27 of the regulation states that counterfeit goods seized by Customs may not enter commercial channels by simple removal of trade marks from the counterfeit goods. Customs must destroy the goods if the infringing features cannot be removed.

### *Specific campaign*

325. A national IPR enforcement campaign against infringement started in November 2010, and was completed in June 2011.<sup>265</sup> The campaign's focus was on cracking down IPR violations in the industries of press and publication, entertainment, software, high-tech, and agriculture, with special emphasis on products such as audio-visual products, auto parts, handsets, pharmaceuticals, and plant seeds. Enforcement activities are conducted by the MOFCOM (as the main coordinator), the Ministry of Public Security, AQSIQ, and the SIPO.

326. In the national campaign, the SAIC investigated 851 cases of trade mark violation on internet trading, among which 47 were transferred to the public security authorities for further criminal investigation.

<sup>264</sup> See State Intellectual Property Office of the PRC (2011), p. 27.

<sup>265</sup> "Circular on the Specific Campaign for Cracking Intellectual Property Violation and Infringing Commodities", State Council General Office Circular, No. 2010/50.

327. As part of the national campaign, the National Copyright Administration of China (NCAC) took an initiative to remove numerous unauthorized audio-visual materials from large file-sharing websites in November 2010.

328. In addition to ad hoc campaigns, clear rules and fully implemented procedures will play more important roles in protecting IPRs. A key task under the Promotion Plan for National Intellectual Property Strategy 2011, is the establishment of a long-term mechanism on IP protection, in particular a regular mechanism to enforce IP protection against internet violation.

329. It is reported that the leadership structure of this specific campaign will be made permanent, as regular IPR enforcement in China. A vice-Premier will take on the role of overseeing IPR enforcement. Officials at the provincial level are also expected to be more proactive in enforcement as such enforcement effort will be taken into account in their performance evaluations.

330. In January 2011, the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, and the Ministry of Justice jointly issued the Circular of Opinions on Some Issues Concerning the Application of Law in the Trial of Criminal Cases Involving IPRs Infringement. This circular provides standards of conduct regarding whether to launch criminal investigation or accept cases in courts.

331. Reportedly, China has prepared judicial interpretations regarding the liability of internet infringement facilitators and of market managers for counterfeit goods.<sup>266</sup>

#### *International cooperation*

332. China participates in international cooperation in IPR enforcement, including in discussions and negotiations in multilateral and plurilateral frameworks such as WIPO, the WTO, and APEC.

333. China is also engaged in bilateral cooperation in IPR protection with the United States, the EU, France, Germany, the United Kingdom, Australia, Japan, Korea, Thailand, Romania, Czech Republic, and Russia, in the regard to trade mark, copyright, border measures, and other related issues.

---

<sup>266</sup> Agreement reached in the 21<sup>st</sup> US-China Joint Commission on Commerce and Trade in December 2010. Viewed at: <http://www.commerce.gov/node/12467>.

## IV. TRADE POLICIES BY SECTOR

### (1) AGRICULTURE

#### (i) Agriculture in China

1. Despite strong growth in manufacturing and services, agriculture is still an important part of China's economy: in 2010, it contributed 10% to GDP and represented about 37% of all employment. Although the number of people employed in agriculture has been falling while output has been increasing, indicating rising productivity, the difference between agriculture's contribution to GDP and to employment also indicates that productivity remains well below that found in other sectors and helps to explain the income disparity between rural and urban areas.

2. In 2010, imports of agricultural goods (WTO definition) into China were worth about US\$67 billion (about 5% of total imports of goods) and exports about US\$36 billion (about 2% of total exports of goods).<sup>1</sup> China is the biggest producer in the world of several major agricultural products, including rice, cotton, wheat, and potatoes.<sup>2</sup>

#### (a) Production

3. The total value of production of agriculture in China has grown strongly over the past few years; it reached ¥5,777 billion in 2010, with an average annual increase of over 12%. This is a result of both rising prices and increasing quantities of production for most of the main products. In terms of the value of production, vegetables are the main product (20% of the output value), followed by swine (16%), fowl (10%), rice (8%), and maize (5%) (Table IV.1). Production is broadly based with the top ten products making up just over half of the gross value of all agriculture production.

4. The increase in production quantities has varied substantially from one product to another. Production of milk nearly tripled from 2002 to 2008 and then stabilized at nearly 36 million tonnes, and production of apples, poultry meat, maize, and wheat also grew strongly. However, production volumes of some major products have increased by much smaller amounts and production of beans declined over the same period (Table IV.2).<sup>3</sup> Data on yields indicate that, for the main crops, most of the increase in production has come from increased area harvested, as yields (in kg/ha) have not increased by the same amount (Table IV.3).

5. Practically all of China's 200 million farms are small family farms with an average farm size of only 0.6 ha. The small size severely restricts the amount of capital that can be invested in machinery and other labour saving investments. Until recently, the low cost of labour meant that this was not always a restriction on production. Small farm sizes and high levels of labour availability also meant that production grew most strongly for labour-intensive crops such as fruits and vegetables. However, labour shortages and rising labour costs may be becoming a constraint on production.<sup>4</sup>

<sup>1</sup> UNSD Comtrade online database. Viewed at: <http://comtrade.un.org/> [October 2011].

<sup>2</sup> FAOSTat online database. Viewed at: <http://faostat.fao.org/> [October 2011].

<sup>3</sup> FAOSTat online database. Viewed at: <http://faostat.fao.org/> [October 2011]; and OECD Producer and Consumer Support Estimates database. Viewed at: [http://www.oecd.org/document/59/0,3746,en\\_2649\\_33797\\_39551355\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/59/0,3746,en_2649_33797_39551355_1_1_1_1,00.html) [October 2011].

<sup>4</sup> Zhang, Yang, and Wang (2010).

**Table IV.1**  
**Value of output for agriculture and selected products, 2002-10**  
 (¥ billion)

	2002	2003	2004	2005	2006	2007	2008	2009	2010
<b>Total output value</b>	2,339	2,441	3,031	3,292	3,361	4,078	4,863	5,025	5,777
Vegetable	403	442	491	563	622	742	857	947	1,157
Swine	406	444	617	644	505	813	1,096	906	920
Fowl	256	276	328	373	377	420	488	517	564
Rice	209	194	297	298	278	329	363	367	447
Fruit and nut	149	157	177	209	230	280	318	352	439
Maize	137	145	196	199	209	237	262	249	303
Wheat	105	106	142	162	161	183	198	235	235
Live cattle	83	95	109	125	136	136	174	183	200
Oil-bearing crops	68	79	100	96	87	123	156	138	162
Cotton	53	79	88	88	102	125	110	102	160
Sheep and goats	48	56	65	74	56	90	108	118	140
Soybean	43	50	63	65	53	49	62	57	61

- Note: 1. Total output value corresponds to data for "Agriculture" and "Animal husbandry" from the National Statistics Bureau.  
 2. Data on "Fruit and nut" in 2009 and 2010 do not include nuts.  
 3. In 2009, data for agriculture and forestry were adjusted according to the new Products Catalogue for Statistics.

Source: Data from the National Statistics Bureau.

**Table IV.2**  
**Volume of agricultural production for selected products, 2002-10**  
 (Million tonnes)

	2002	2003	2004	2005	2006	2007	2008	2009	2010
Pork	41.2	42.4	43.4	45.6	46.5	42.9	46.2	48.9	50.7
Poultry meat	12.0	12.4	12.6	13.4	13.6	14.5	15.3	15.9	16.6
Rice	174.5	160.7	179.1	180.6	181.7	186.0	191.9	195.1	195.8
Apples	19.2	21.1	23.7	24.0	26.1	27.9	29.8	31.7	33.3
Maize	121.3	115.8	130.3	139.4	151.6	152.3	165.9	164.0	177.2
Wheat	90.3	86.5	92.0	97.4	108.5	109.3	112.5	115.1	115.2
Beef	5.2	5.4	5.6	5.7	5.8	6.1	6.1	6.4	6.5
Rapeseed	10.6	11.4	13.2	13.1	11.0	10.6	12.1	13.7	13.1
Cotton	4.9	4.9	6.3	5.7	7.5	7.6	7.5	6.4	6.0
Mutton	2.8	3.1	3.3	3.5	3.6	3.8	3.8	3.9	4.0
Beans	22.4	21.3	22.3	21.6	20.0	17.2	20.4	19.3	19.0
Sugar crops	102.9	96.4	95.7	94.5	104.6	121.9	134.2	122.8	120.1
Milk	13.0	17.5	22.6	27.5	31.9	35.3	35.6	35.2	35.8

Source: Data from the National Statistics Bureau.

**Table IV.3**  
**Yields of agricultural products for selected products, 2002-10**  
 (Kg/ha)

	2002	2003	2004	2005	2006	2007	2008	2009	2010
Rice	6,189	6,061	6,311	6,260	6,280	6,433	6,563	6,585	6,553
Wheat	3,777	3,932	4,252	4,275	4,593	4,608	4,762	4,739	4,748
Corn	4,924	4,813	5,120	5,287	5,326	5,167	5,556	5,258	5,454
Cotton	1,175	951	1,111	1,129	1,295	1,286	1,302	1,289	1,229
Soybean	1,893	1,653	1,815	1,705	1,620	1,454	1,703	1,630	1,771
Rapeseed	1,477	1,582	1,813	1,793	1,833	1,874	1,835	1,877	1,775
Sugarcane	64,663	64,023	65,199	63,970	70,450	71,228	71,210	68,093	65,700

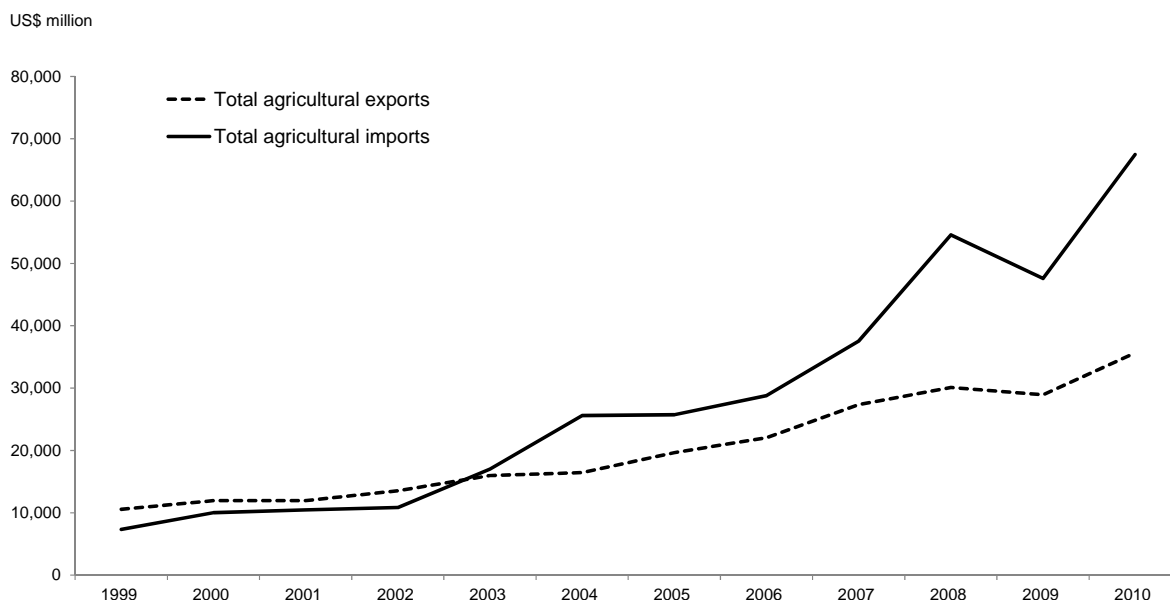
Source: Data from the National Statistics Bureau.

(b) Trade

6. Over the past ten years, China's imports and exports of agriculture products (WTO definition) have grown considerably. The fall in the value of trade in 2009 compared with 2008 was more the result of the drop in commodity prices, as import volumes continued to rise in this period. Furthermore, in value terms, exports and imports resumed their growth 2010.

7. In value terms, imports have increased by an average of 23% per year since 2001, reaching US\$67 billion in 2010 (Chart IV.1). This rate of growth is only slightly faster than for imports of goods as a whole, and agriculture still represents less than 5% of total imports of goods. The main source of imports is the United States, followed by Brazil, Argentina, and Malaysia. The rate of growth in imports varies considerably from one product to another. For the main imported products, growth was particularly strong for cotton, soybean oil, malt extracts, and palm oil (Table IV.4).

**Chart IV.1**  
**Agriculture exports and imports, 1999-2010**



Source: UNSD Comtrade, <http://www.comtrade.un.org>.

8. For over a decade soybeans have been by far the most important import, making up over one third of all agriculture imports, followed by cotton, palm oil and wool. The United States is the main supplier of soybeans, followed by Brazil and Argentina. The United States is also the main supplier of cotton, followed by India and Uzbekistan. Malaysia is the main supplier of palm oil, followed by Indonesia.

9. Exports have also increased considerably over the past ten years, nearly tripling to US\$36 billion in 2010 (Table IV.5). The structure of exports changed considerably during this time as exports of some products, such as vegetables, fruits and food preparations increased at much faster rates than more traditional exports, such as rice and raw silk. The main destination for exports of agricultural products is Japan, followed by the United States, and Hong Kong, China.



**Table IV.4**  
**Imports of selected agricultural products, 2001-10**  
 (US\$ million, '000 tonnes, and %)

HS Code	Commodity description		2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
1201	Soybeans	US\$ million	2,810	2,483	5,417	6,979	7,778	7,489	11,473	21,815	18,787	25,093
		'000 tonnes	13,939	11,314	20,741	20,230	26,590	28,237	30,817	37,436	42,552	54,798
5201	Cotton	US\$ million	71	180	1,163	3,166	3,191	4,867	3,477	3,491	2,114	5,655
		'000 tonnes	56	171	870	1,901	2,568	3,641	2,458	2,110	1,526	2,836
1511	Palm oil	US\$ million	425	849	1,443	1,868	1,782	2,274	3,683	5,213	4,219	4,711
		'000 tonnes	1,517	2,221	3,325	3,857	4,330	5,069	5,095	5,282	6,441	5,696
5101	Wool	US\$ million	790	815	753	1,077	1,210	1,260	1,790	1,686	1,461	1,955
		'000 tonnes	250	192	165	221	247	277	309	280	305	315
4101	Hides	US\$ million	606	565	712	959	1,023	1,204	1,290	1,413	1,142	1,514
		'000 tonnes	437	437	532	622	649	705	680	757	974	893
0402	Milk, cream concentrated	US\$ million	115	162	217	274	235	291	326	401	584	1,396
		'000 tonnes	60	112	135	146	108	136	99	102	249	417
0714	Roots and tubers	US\$ million	153	143	195	344	421	621	660	393	890	1,207
		'000 tonnes	1,951	1,761	2,368	3,442	3,336	4,951	4,621	1,979	6,109	5,764
1507	Soybean oil	US\$ million	24	408	1,015	1,549	908	800	2,146	3,334	1,842	1,203
		'000 tonnes	70	870	1,884	2,516	1,694	1,543	2,823	2,586	2,391	1,341
1901	Malt extract	US\$ million	71	105	101	145	175	282	355	581	847	979
		'000 tonnes	18	27	28	38	46	68	75	91	119	125
0207	Poultry meat	US\$ million	444	426	462	154	334	462	945	1,088	984	963
		'000 tonnes	707	574	644	185	383	588	804	833	750	542
<b>Total agriculture imports</b>			10,473	10,842	17,003	25,608	25,738	28,790	37,534	54,597	47,570	67,463

Source: UNSD Comtrade. Viewed at: <http://comtrade.un.org/>.

**Table IV.5**  
**Exports of selected agricultural products, 2001-10**  
 (US\$ million and %)

HS Code	Commodity description		2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0703	Onions	US\$ million	269	403	462	541	714	996	1,048	797	1,269	2,612
		'000 tonnes	852	1,337	1,646	1,605	1,784	1,863	2,133	2,114	2,152	2,060
0712	Dried vegetables	US\$ million	349	374	446	573	702	846	935	931	1,040	1,882
		'000 tonnes	202	188	214	230	242	274	318	318	316	369
2008	Fruit, nuts, preserved nes	US\$ million	507	551	712	830	947	1,128	1,484	1,809	1,565	1,868
		'000 tonnes	568	699	861	961	1,063	1,136	1,348	1,312	1,246	1,308
1602	Other prepared/ preserved meat products	US\$ million	593	666	711	838	1,109	1,172	1,214	1,003	1,036	1,316
		'000 tonnes	231	263	281	302	390	420	407	276	278	352
2309	Animal feed	US\$ million	92	89	98	125	183	282	541	921	873	1,234
		'000 tonnes	186	145	144	161	174	210	424	666	550	748
0808	Apples, pears, quinces	US\$ million	141	209	290	365	428	520	674	913	933	1,075
		'000 tonnes	486	682	906	1,092	1,192	1,179	1,425	1,600	1,635	1,561
2005	Other vegetables prepared/ preserved	US\$ million	358	400	434	552	671	776	938	892	795	965
		'000 tonnes	485	528	582	705	811	879	983	930	835	936

Table IV.5 (cont'd)

HS Code	Commodity description		2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2009	Fruit juices	US\$ million	179	199	285	366	525	671	1,353	1,259	762	864
		'000 tonnes	258	323	453	533	707	746	1,141	794	897	896
0713	Dried vegetables	US\$ million	280	319	359	331	388	406	542	826	816	836
		'000 tonnes	719	860	1,041	795	868	801	859	1,031	1,096	1,000
0504	Offal	US\$ million	284	291	399	505	510	548	574	843	791	832
		'000 tonnes	52	56	65	63	64	71	69	68	70	76
<b>Total agricultural exports</b>			<b>11,954</b>	<b>13,519</b>	<b>15,978</b>	<b>16,435</b>	<b>19,655</b>	<b>22,067</b>	<b>27,355</b>	<b>30,088</b>	<b>28,936</b>	<b>35,649</b>

Source: UNSD Comtrade. Viewed at: <http://comtrade.un.org/>.

## (ii) Agriculture policies

10. Agriculture policies continue to evolve in the same direction as that seen in the last TPR of China. The 12<sup>th</sup> Five-Year Plan (2011-2015) reaffirms the commitments in earlier plans to build a Socialist New Countryside through strengthened support, more benefits to farmers, and the promotion of modernization in order to improve living standards for farmers. The main objective of domestic policy is to safeguard food security by increasing production capacity and improving competitiveness. More specific objectives are set out in the plan and include an increase in production capacity for grains (defined as rice, wheat, maize, and soybeans) by 50 million tonnes. This increase is to be achieved through higher investment in and payments to grain producing areas while improving agricultural production conditions. The plan also emphasizes the need to increase farm mechanization as well as the development and adoption of biotechnology. Other measures set out in the plan include increased minimum purchase prices for key grains, and improving temporary purchase and storage of bulk agricultural commodities.

11. Diversification of the rural economy is also stressed through the development of tourism, alternative-fuels, investment in infrastructure, improved town and village planning, and better public services (including education and training).

12. Agriculture policy at the national level is the responsibility of the Ministry of Agriculture. However, as in many countries, a number of other ministries and government agencies are also involved. In principle, the inputs of different agencies are coordinated at the level of the Communist Party and the State Council. Subnational authorities also affect policy as they are responsible for implementing and co-financing some policy measures. The basic law on agriculture remains the Agriculture Law of 1993, which sets out the division of responsibilities from the national to local level, including that of farmers.

13. All farm land in China is owned by the State or by collectives, and administered by the local authorities for the area. Under the Agriculture Law of 1993 and the Law on Land Contract in Rural areas of 2003, contracts for farming may be awarded to farm households. The length of contract is 30 years for arable land, 30-50 years for grassland ranges, 30-70 years for forestland ranges and possibly longer than 70 years for forestland ranges with special trees. At the end of the contract, priority is to be given to the current contractor over other applications.<sup>5</sup> Land rights were given greater clarity by the Property Rights Law of 2007, which essentially provides similar rights to private ownership. However, land may not be sold or sublet and may not be used as collateral for loans,

<sup>5</sup> Ministry of Agriculture online information. Viewed at: <http://english.agri.gov.cn/ga/plar/> [October 2011].

which is a serious impediment to investment and restructuring.<sup>6</sup> In October 2008, the 17<sup>th</sup> Party Congress approved The Decision on Certain Issues Concerning the Advancement of Rural Reform and Development, which indicated that land policy could change, with greater rights to holders to transfer, rent or trade land. The Decision also seeks to prevent further loss of farmland to development.<sup>7</sup> As of end 2011, the Decision had not been translated into law and it remains to be seen if, and how, it may be implemented.

14. Since its previous Review, China has not made any major changes to its policies or programmes to support agriculture. It continues to use a broad range of measures that include tariff protection, minimum purchase prices for rice and wheat, government purchase and storage for these commodities, government temporary purchasing and stockpiling for some other commodities, input subsidies, and direct payments.

(a) Import measures

15. China has 1,097 tariff lines at the HS eight-digit level for agriculture products (WTO definition) with an average tariff of 15.1%, compared with 8.6% for all other products. Applied tariffs vary a lot from one product category to another with the highest tariffs applied to cereals (HS Chapter 10), sugars (Chapter 17), and tobacco (Chapter 24). The lowest tariffs are applied to fodder, and residues and waste from the food industry (Chapter 23), and live animals (Chapter 01).

16. Within each HS Chapter, tariffs may vary considerably, particularly in chapters with the highest average protection. Tariffs on cereals (HS Chapter 10) range from zero to 65%, and tariffs on sugars (Chapter 17) from 8% to 50%, with standard deviations of 32 and 17 respectively. Tariff variability in other HS Chapters is lower, for example tariffs on live animals range from 0 to 10% with a standard deviation of 4.9.

17. In line with its accession commitments, since 2006, China no longer operates tariff quotas for soybean oil, palm oil or rape seed oil. However it continues to operate seven tariff quotas covering 39 tariff lines for wheat, maize, rice, sugar, wool, and cotton.

18. According to the authorities, there has been no change to tariff quota administration since China's last notification to the Committee on Agriculture in 2003.<sup>8</sup> Under that notification, applicants had to meet some basic criteria including registration with the Administration of Industry and Commerce, and passing an annual review of the enterprise by the Administration of Industry and Commerce and the inspection and quarantine authorities. Quotas were then allocated based on the volumes requested, previous imports, production capacity, or on a first-come, first-served basis. State-trading enterprises continue to dominate access to tariff quotas, being allocated 90% of the wheat quota, 60% of the maize quota, 50% of the rice quota, 70% of the sugar quota, and 33% of the cotton quota.

19. As of February 2011, the most recent notification for in-quota imports was for calendar year 2009. Along with earlier notifications, this shows that in-quota imports for rice, wheat, and maize have been low compared to the quota quantity.<sup>9</sup> In response to questions in the Committee on Agriculture, China indicated that it did not intend to review its methods for allocating quotas, and the

<sup>6</sup> OECD (2009a), p. 90.

<sup>7</sup> Communist Party of China (2008).

<sup>8</sup> WTO document G/AG/N/CHN/2, 25 September 2003.

<sup>9</sup> WTO documents G/AG/N/CHN/19, 15 April 2010; G/AG/N/CHN/16, 10 August 2009; and G/AG/N/CHN/14, 19 February 2009.

low level of imports relative to the size of the tariff quota was due to high levels of domestic production coupled with high international prices.<sup>10</sup>

(b) Export measures

20. According to notifications to the Committee on Agriculture and based on its WTO commitments, China does not provide export subsidies for agricultural products.<sup>11</sup>

21. In order to reduce food-price inflation, export taxes were applied to grains and their products from the beginning of 2008 and were phased out, starting in December 2008, with the last ones removed by the end of June 2009. However, the VAT rebate rate on exports of most agricultural products is currently 5% compared with the statutory rate of 13%, which means VAT is not refunded in full. Furthermore, in December 2007 the rebate was removed entirely for a number of products, including cereals, soybeans, and their flours, with vegetable oils added to the list in June 2008<sup>12</sup>, and alcohol and maize starch in July 2010.<sup>13</sup>

22. Exports of rice, maize, cotton, and tobacco are through state-trading enterprises and, along with other grains, are subject to export quotas.

(c) Domestic support

*Direct payments*

23. China's policy on direct payments to agricultural producers has not changed since its last TPR. According to the notification to the WTO Committee on Agriculture, it is based on the area of land contracted by the farm household and is decoupled from production and prices.<sup>14</sup> Direct payments now cover almost the entire countryside, although local authorities have the responsibility to decide, which areas under their jurisdiction may receive payments, and the subsidy level may also vary from one locality to another. The total amount provided for under the direct payments programme was ¥15.1 billion annually in the 2007-10 period.

*Insurance programmes*

24. In response to the very low insurance coverage for farming in China and the high degree of risk of drought or flooding, a pilot insurance scheme was introduced in 2007 with geographical coverage limited to six provinces.<sup>15</sup> Coverage had been extended to 28 provinces by end 2010. Insurance premiums are subsidized by the central and local governments with farm households paying the balance of about 20-30%.

<sup>10</sup> WTO document G/AG/R/56, 10 November 2009.

<sup>11</sup> WTO document G/AG/N/CHN/20, 15 April 2010; G/AG/N/CHN/15, 10 August 2009; G/AG/N/CHN/13, 18 February 2009; G/AG/N/CHN/12, 14 September 2007.

<sup>12</sup> OECD (2011), p. 231.

<sup>13</sup> World Tax Rates 2010/2011 online information. Viewed at: <http://www.taxrates.cc/html/07d-export-vat-refund.html> [November 2011].

<sup>14</sup> WTO document G/AG/N/CHN/18, 25 March 2010.

<sup>15</sup> World Bank (2007).

*Input subsidies*

25. China uses several types of input subsidy. The Comprehensive Subsidy on Agricultural Inputs was established in 2006 to compensate grain producers for increases in the price of inputs. However, the payments are not contingent on the consumption of inputs and, according to the authorities, are made on the basis of taxable arable area; thus the authorities consider that they function as direct payments rather than as input subsidies. The amount available under this programme increased steadily from ¥12 billion in 2006 to ¥71.6 billion in 2010.

26. The New Variety Extension Payment scheme, which was introduced in 2006 to improve the quality of seeds and livestock, has been extended from the original wheat, rice, maize, and soybeans, to include: rapeseed and cotton in 2007; potatoes in 2009; and barley in 2010 and, on a trial basis, peanuts. Livestock covered by the scheme include pigs, dairy cows, beef cattle, and sheep. In addition to increasing the product coverage, the scheme has been extended to cover greater areas, with all land sown with rice covered from 2008, and all land sown with wheat, maize, and cotton covered from 2009, and substantial expansion of the eligible area for soybeans in 2008 and 2009.<sup>16</sup> The rate of subsidy varies depending on the crop, from ¥10 per mu for early rice, to ¥15 per mu for cotton, and middle and late rice.

27. Although the support is provided through lower priced inputs in some areas, it has been reported that there is a growing tendency to pay subsidies directly to farmers without monitoring. If this is the case, then the New Variety Extension Payment scheme may be operating as a direct payment linked only to area planted.<sup>17</sup> The total amount provided under the scheme has increased along with the area covered and number of products included.

28. In 2008, the subsidy for reproductive sows was doubled to ¥100 but then restricted to high quality breeding sows in 2010.<sup>18</sup>

29. Fertilizer costs are controlled and subsidized through several measures. Exports are subject to export taxes, which have been adjusted a number of times in recent years and stood at 75% in October 2011.<sup>19</sup> Import measures taken to reduce the cost of fertilizers and fertilizer production include: reductions in tariffs on fertilizers and fertilizer raw materials; VAT reductions and exemptions; preferential prices for electricity, natural gas, and railway transport; and an exemption from the railway construction fund.

30. Purchases of agricultural machines are also subsidized at rates between 20% and 30% of the sale price. In 2008, the scheme was extended to cover the whole country. The local authorities are responsible for running the scheme and deciding what machines are covered pursuant to a catalogue of agricultural machines issued by the central government. The amount provided for the purchase of agricultural machines has increased steadily, from ¥2 billion in 2007 to ¥15.5 billion in 2010.

---

<sup>16</sup> USDA FAS (2011b).

<sup>17</sup> OECD (2011), p. 228.

<sup>18</sup> USDA FAS (2011c).

<sup>19</sup> Special export duty rates applied to HS 31021000, 31043000, 31049010, 31049090, 31052000, 31053000, and 3105400. Otherwise fertilizers have an interim export duty rate of up to 35% (HS 31502000).

*Internal price supports*

31. In addition to border measures that, to some extent, protect the internal market from competition from imports, China has a number of programmes that support domestic prices. Minimum purchase prices for rice and wheat are set each year by the National Development and Reform Commission. Although the prices have been rising each year (Table IV.6), the purchase price for rice has usually been below the world market price. According to the authorities, under ordinary circumstances, farmers sell grains at market prices; it is only when the prices of rice and wheat in the principal growing areas fall below the minimum purchase prices that farmers may sell grains at the minimum purchase prices to enterprises designated by the State.

**Table IV.6**  
**Minimum prices for rice and wheat, 2007-11**  
(¥ per tonne)

	2007	2008	2009	2010	2011
<b>Wheat</b>					
White wheat	1,440	1,540	1,740	1,800	1,900
Red wheat	1,380	1,440	1,660	1,720	1860
<b>Rice</b>					
Early indica	1,400	1,540	1,800	1,860	2,040
Middle and late indica	1,440	1,580	1,840	1,940	2,140
Japonica	1,500	1,640	1,900	2,100	2,560

*Source:* USDA and the Chinese authorities.

32. Up until 2010, Sinograin was responsible for all purchases under the Minimum Purchase Prices scheme, but since that year China National Cereals, Oils and Foodstuffs Corporation (COFCO), and China Grain and Logistics Corporation (CGLC) became entitled to make such purchases.

33. In addition to the Minimum Purchase Prices Scheme, the State takes other measures to adjust the supply and demand of certain agricultural products, such as purchasing and stockpiling on an ad hoc basis, and stock releasing for sugar cane and sugar beet, soybeans, maize, rapeseed, and cotton. The main distributors of grains are state-trading enterprises, such as Sinograin, which purchase from producers, and sell to processors through weekly auctions. In order to reduce demand and prices for grains, the State decided in November 2010 to restrict auctions to flour millers, feed millers, and livestock producers.<sup>20</sup> According to the authorities, purchases and sales from the national grain reserves by the State Administration of Grain take place at market prices.

34. For sugar cane, provincial governments administer and set purchase prices. The purchase price varies from one province to another but has increased steadily over the past six years and is now about ¥500 per tonne. The Government and local authorities hold stocks of sugar, with purchases and sales aimed at stabilizing prices based on decisions from the National Development and Reform Commission. For the year ending 30 September 2010, 1.71 million tonnes were auctioned from State sugar reserves.<sup>21</sup>

<sup>20</sup> USDA FAS (2011b).

<sup>21</sup> USDA FAS (2011e).

*Conservation*

35. The Green for Grain programme was introduced on a pilot basis in 1999 with the objective of encouraging afforestation, reversing ecological degradation and soil erosion, and reducing over-cultivation of sensitive land. In 2002, the programme was extended to cover all of China but, in 2007, it was restricted to afforestation of barren land due to concerns about its impact on grain production. Originally, farmers participating in the programme were given cash subsidies and grains to compensate for land taken out of production. Since 2004, the allocation of grains has been converted to cash. The cash subsidy is ¥20 per mu and the grain allocation (now converted to cash at the rate of ¥1.4 per kg) varies from one region to another.

36. By the end of 2008, 8.2 million ha of cropland had been converted to forest and 27 million rural households were participating in the programme. The Green for Grain programme was the biggest of several afforestation measures and, in the 1998-08 period accounted for over half of total spending of ¥284 billion on afforestation.<sup>22</sup>

37. Current spending on the Green for Grain programme is mostly for land already converted to pasture or forest, and total support for the programmes fell to ¥24.3 billion in 2011 from ¥42.8 billion in 2009.

(d) Support levels

38. The most recent notification on domestic support to the Committee on Agriculture was in October 2011 for the calendar years 2005-08.<sup>23</sup> Along with earlier notifications, this shows that support has increased significantly over the past ten years in both the Green and Amber Box with Green Box support at ¥593 billion in 2008, and Amber Box support at ¥89 billion (including *de minimis* and subtracting negative product-specific support).

39. Most support notified as being in the Green Box is provided for general services, where infrastructure and other general services together represent nearly half of the total. While expenditure under all headings has increased (except for financial assistance to low-income households), it has been particularly rapid for compensation for losses due to natural disasters and for direct payments to farmers (which were introduced in 2004) (Chart IV.2(a)).

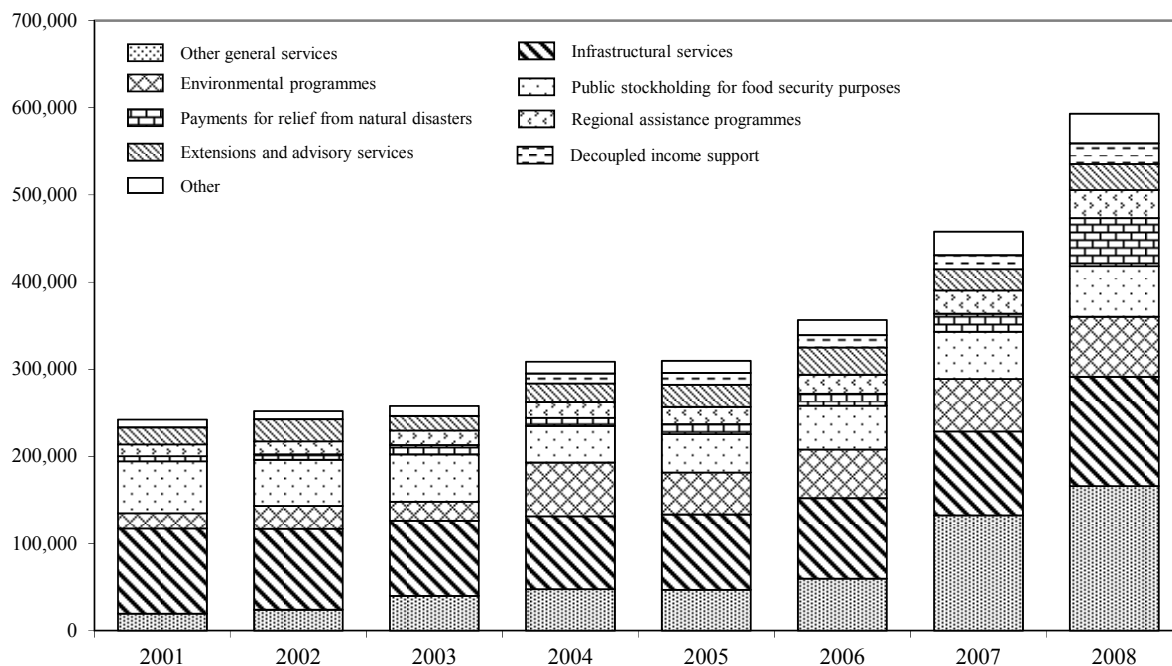
40. Amber Box support as notified to the WTO has also risen over the past few years as budgetary outlays increased for: improved crop strains and seeds; transport subsidies; and subsidies for maintaining national reserves. According to the notifications, the minimum purchase prices of wheat and rice between 2005 and 2008 and the protective price for maize between 1999 and 2003 were below the external reference price (the base period price for 1996-98). Therefore, in some years product-specific support was negative (Chart IV.2(b)). Since 2005, the value of input subsidies has increased significantly and reached nearly ¥79 billion in 2008. Although the level of support is increasing, it remains below *de minimis* levels as product-specific support is less than 8.5% of the value of production for each product and non-product-specific support is less than 8.5% of the total value of agricultural production.

<sup>22</sup> Liu and Wu (2010).

<sup>23</sup> WTO document G/AG/N/CHN/21, 13 October 2011.

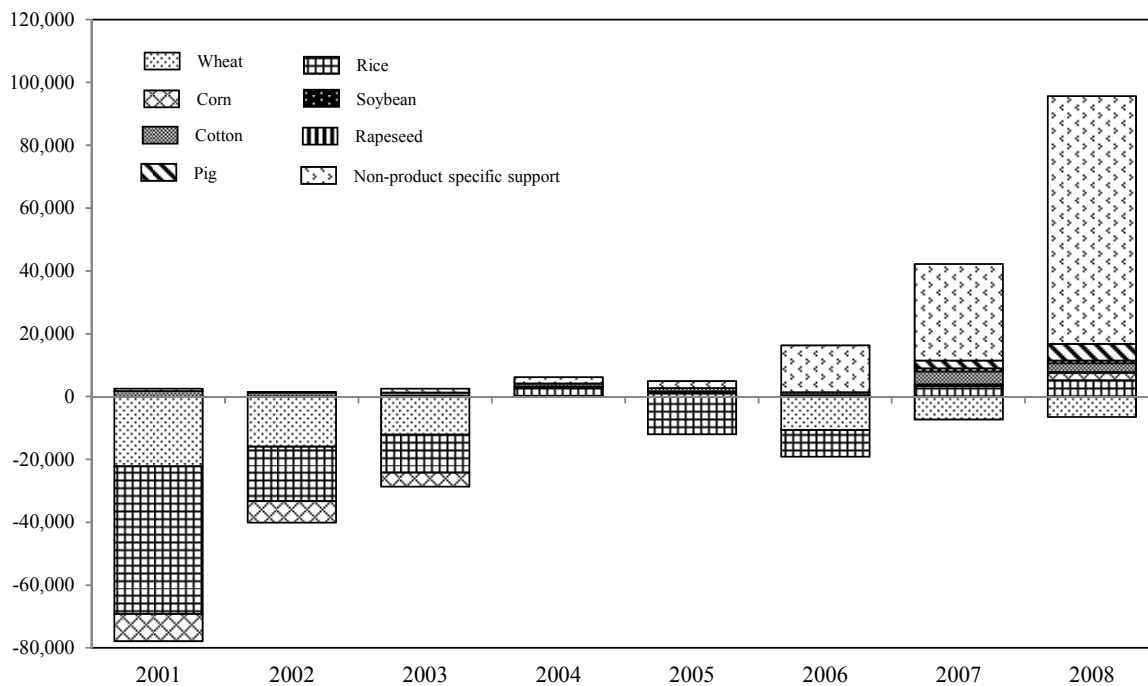
**Chart IV.2**  
**(a) Green Box support, 2001-08**

¥ million



**(b) Amber Box support in China, 2001-08**

¥ million



Source: WTO notifications.



41. The OECD has been publishing reviews of agriculture policies in China and other emerging economies for several years.<sup>24</sup> In these publications, the value of transfers to agricultural producers are measured using the Producer Support Estimate (PSE) and associated indicators. The methodology for calculating these indicators is different from that used to calculate the AMS and the two sets of data are not compatible or comparable. The methodology used by the OECD is evolving and was revised for the 2007 Monitoring and Evaluation report resulting in several changes, including to estimates of support of specific commodities.<sup>25</sup> The total PSE is "the annual monetary value of gross transfers from consumers and taxpayers to agricultural producers, measured at the farm gate level, arising from policy measures that support agriculture, regardless of their nature, objectives or impacts on farm production or income. It includes market price support, budgetary payments and budget revenue foregone, i.e. gross transfers from consumers and taxpayers to agricultural producers arising from policy measures based on: current output, input use, area planted/animal numbers/receipts/incomes (current, non-current), and non-commodity criteria." Thus, the PSE includes estimates for the value of protection provided by market access measures, such as tariffs and tariff quotas, as well as input subsidies, direct payments to producers that are coupled to prices or production, and direct payments decoupled from prices and production.<sup>26</sup>

42. However, the authorities also pointed out that the research theories and methodologies of various international organizations, while having value, also have limitations. With respect to agriculture policies, different countries have different situations and face different problems, especially developed countries compared with developing countries at different stages of development with different policy objectives. Interpreting the OECD's reports should take these factors into account.

43. As measured by the PSE, support to agriculture producers in China has increased over the past decade, rising from 5% of gross farm receipts in 2001 to 17% in 2010 (with a sharp drop to 3% in 2008 when international prices peaked). At the same time the value of agriculture production has been increasing in China, so the monetary value of transfers to agricultural producers increased from ¥65 billion to ¥995 billion over the same period. Although the total value of support was less than the OECD average of 18% in 2010, the difference has narrowed considerably over the past ten years as support in the OECD declined from 28% in 2001 while support in China increased from 5%.

44. Transfers to specific commodities vary widely with the highest support given to cotton and sugar, where it may exceed half of the value of farm receipts. The lowest levels of support are for rice and eggs, where support is actually negative as State purchases are at prices below import prices, implying a net tax on producers (Table IV.7).

45. There appears to be some conflict among the different policy objectives for agriculture and the measures taken to achieve those objectives. On the one hand, protection of the natural environment is stressed in the 12<sup>th</sup> Five-Year Plan while subsidies and price-based measures have contributed to high use of fertilizers which has, in turn, meant they are one of the principle causes of surface and groundwater pollution.<sup>27</sup> On the other hand, the authorities stated that government policies are not intended to increase the use of fertilizers but to prevent seasonal shortages. The use of minimum prices and other price-based mechanisms to reduce price fluctuations at different levels for different crops, while also maintaining tariffs at various levels depending on the product, may also distort price signals for producers, which means they may not be reacting to real demand.

<sup>24</sup> OECD (2009a) and (2011).

<sup>25</sup> OECD (2007).

<sup>26</sup> OECD (2010a).

<sup>27</sup> OECD (2009a), p. 88.

**Table IV.7**  
**Total producer support estimate and single commodity transfer values for selected commodities, 2002-10**  
(¥ million and % of gross farm receipts for respective products)

	2002	2003	2004	2005	2006	2007	2008	2009	2010
<b>Producer Support Estimate</b>									
¥ million	203,004	255,613	239,543	295,244	436,230	440,899	168,762	708,642	994,780
of which MPS	121,357	157,586	96,383	109,406	205,310	142,193	-139,352	342,526	609,209
PSE as % gross farm receipts	8	10	8	8	12	10	3	13	17
<b>Single Commodity Transfers</b>									
<b>Common Wheat</b>									
¥ million	-17,844	-14,429	-11,962	-15,364	53,569	20,818	26,774	65,161	66,149
SCT as % gross farm receipts	-19	-15	-9	-11	34	13	14	31	28
<b>Rice</b>									
¥ million	12,980	17,582	38,669	3,288	-11,167	-2,433	-239,880	-168,599	-14,026
SCT as % gross farm receipts	7	9	14	1	-4	-1	-66	-44	-3
<b>Maize</b>									
¥ million	25,349	31,741	11,611	32,161	43,598	32,833	-35,896	40,468	68,079
SCT as % gross farm receipts	25	29	9	22	26	17	-15	16	23
<b>Soybeans</b>									
¥ million	5,885	10,417	-3,619	2,852	5,927	3,715	-4,620	12,210	12,767
SCT as % gross farm receipts	17	25	-8	7	16	9	-8	23	24
<b>Cotton</b>									
¥ million	15,836	37,015	-2,383	35,101	33,434	44,405	10,841	45,892	54,002
SCT as % gross farm receipts	34	51	-3	47	37	44	14	54	51
<b>Rapeseed</b>									
¥ million	-162	1,948	3,056	407	2,326	601	15,010	11,477	8,122
SCT as % gross farm receipts	-1	7	9	1	9	2	25	24	16
<b>Pig meat</b>									
¥ million	-10,803	-14,110	-4,409	-11,440	-14,656	-5,433	138,272	96,134	87,712
SCT as % gross farm receipts	-3	-3	-1	-2	-2	-1	16	13	12
<b>Sugar</b>									
¥ million	6,245	2,509	6,562	12,200	1,617	12,577	6,447	25,482	10,715
SCT as % gross farm receipts	41	18	39	54	7	46	20	70	29

Source: OECD (2011), *Agriculture Policy Monitoring and Evaluation 2011: OECD Countries and Emerging Economies*, Paris.

46. According to the OECD, nearly all support for the main commodities is provided through market price support measures (including tariffs) with a significant amount for input subsidies. The OECD has noted that these are among the less efficient and more trade-distorting forms of support to agricultural producers and that such policies are less efficient than alternatives, such as decoupled or area-based payments, because a large part of the benefits are lost to higher input and resource costs, and that these policies can also distort trade to a greater extent than their more efficient alternatives.<sup>28</sup>

## (2) FISHERIES

### (i) Fisheries in China

47. The fisheries sector in China is small compared with the agriculture sector, with gross output in 2010 of ¥642 billion out of a total of ¥6,932 billion for farming, forestry, animal husbandry, and

<sup>28</sup> OECD (2002).

fisheries. However, China has the biggest fisheries sector in the world: according to the FAO, total production in China in 2009 was over 60 million tonnes, compared with world production of 163 million tonnes. This lead applies in both the capture and aquaculture sectors where China has 16% and 62% of world production by weight respectively.<sup>29</sup> FAO data differ from national data; according to the National Bureau of Statistics, total production was over 51 million tonnes in 2009 (Table IV.8). However, both sets of data indicate that total production has increased considerably over the past few years, particularly for aquaculture, while the capture (or naturally grown) sector has remained stable.

**Table IV.8**  
Fisheries production, 2002-09  
(Million tonnes)

	2002	2003	2004	2005	2006	2007	2008	2009
All aquatic products	39.5	40.8	42.5	44.2	45.8	47.5	49.0	51.2
Seawater	23.0	23.3	24.0	24.7	25.1	25.5	26.0	26.8
Naturally grown	12.4	12.4	12.5	12.6	12.5	12.4	12.6	12.8
Cultured	10.6	11.0	11.5	12.1	12.6	13.1	13.4	14.1
Fish	8.9	8.9	8.8	9.1	8.9	8.9	8.6	8.8
Shrimps, prawns, crabs	2.7	2.6	2.7	2.8	3.0	3.0	2.9	3.0
Shellfish	9.7	9.6	9.7	10.1	10.5	10.7	10.7	11.2
Algae	1.2	1.2	1.3	1.3	1.4	1.4	1.4	1.5
Others	0.5	0.9	1.5	1.3	1.3	1.5	1.2	1.3
Freshwater	16.6	17.4	18.4	19.5	20.7	22.0	23.0	24.3
Naturally grown	1.9	2.1	2.1	2.2	2.2	2.3	2.2	2.2
Cultured	14.6	15.3	16.3	17.3	18.5	19.7	20.7	22.2
Fish	14.8	15.5	16.3	17.4	18.2	19.1	20.0	21.1
Shrimps, prawns, crabs	1.1	1.2	1.3	1.4	1.7	2.0	2.1	2.3
Shellfish	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5
Others	0.2	0.3	0.3	0.3	0.3	0.4	0.4	0.4

Source: National Bureau of Statistics, *China Statistical Yearbook 2010*. Viewed at: <http://www.stats.gov.cn/english/> [February 2011].

48. Based on FAO data, the total value of aquaculture production (including aquatic plants) was US\$57 billion in 2009, more than double the value in 2001 when it was worth US\$27 billion. A wide variety of species are produced in both marine and inland aquaculture. The value of inland aquaculture production was US\$44 billion in 2009, having doubled in value since 2005, when it was US\$22 billion. The main products are various types of carp, tilapia, bream, and shrimps. Traditionally, inland aquaculture was based on ponds, lakes and reservoirs, and paddy-cum-fish fields, and it has been expanding to cages and pens in rivers, lakes, and reservoirs. Marine aquaculture was worth about US\$12-13 billion over the 2004-09 period, despite steadily increasing quantities. The main products are fish, shrimps, crustaceans, shellfish, and kelp. Production of marine aquaculture is mostly in ponds, cages, and in intertidal zones.

49. Data on the value of capture fishing are not available from the FAO. In terms of the quantity, a large variety of species are landed, including largehead hairtail, croakers, scads, shrimps and prawns, squids, and molluscs. According to the FAO, China had 220,000 vessels in 2002, with plans to reduce the number to 192,000 by 2010.<sup>30</sup> The most common fishing gear used was the trawl net,

<sup>29</sup> FAO, Fisheries and Aquaculture Department, online statistics. Viewed at: <http://www.fao.org/fishery/statistics/en> [November 2011].

<sup>30</sup> FAO (2002-2011).

although gill nets, set nets, lines and hooks and purse seines are also used. In 2005 and in 2010, it was reported that China had 90 enterprises engaged in distant-water fishing with 1,700 vessels operating throughout the world.<sup>31</sup>

## (ii) Trade

50. China has a trade surplus in fisheries products with exports of US\$13.2 billion and imports of US\$6.2 billion in 2010. Both imports and exports have increased over the past few years, except in 2009 when they fell, before picking up again in 2010 (Table IV.9). The main exports are fish fillets (HS 0304), aquatic invertebrates (e.g. crustaceans and molluscs) (HS 1605), and caviar and substitutes (HS 1604). The main imports are frozen fish (HS 0303), and flours, meals, and pellets not for human consumption (HS 2301). Japan, the United States, the EU, and South Korea are the main markets for China's exports of fish products, and Peru, Chile, Russia, and the United States are the main sources for imports.

**Table IV.9**  
**Trade in fisheries products, 2002-10**  
(US\$ million)

HS Code	2002	2003	2004	2005	2006	2007	2008	2009	2010
<b>Total exports</b>	<b>4,509</b>	<b>5,268</b>	<b>6,658</b>	<b>7,538</b>	<b>8,981</b>	<b>9,264</b>	<b>10,117</b>	<b>10,249</b>	<b>13,228</b>
of which									
0304 Fish fillets and other fish meat fresh	928	1,161	1,469	1,920	2,286	2,435	2,599	3,106	3,689
1605 Aquatic invertebrates, prepared/preserved	762	1,101	1,405	1,846	2,401	2,362	2,599	1,782	2,360
1604 Prepared/preserved fish; caviar and substitutes	867	823	1,189	1,331	1,815	2,128	2,318	1,638	2,042
<b>Total imports</b>	<b>2,251</b>	<b>2,430</b>	<b>3,133</b>	<b>4,003</b>	<b>4,162</b>	<b>4,544</b>	<b>5,158</b>	<b>4,998</b>	<b>6,206</b>
of which									
0303 Fish, frozen, excluding fish fillets	1,005	1,195	1,519	2,194	2,414	2,635	2,729	2,711	3,132
2301 Flours, meals and pellets, etc, unfit for human consumption	676	545	770	1,098	969	1,042	1,436	1,344	1,746

Note: For the purposes of this section of the report, fish products are defined as HS headings 03, 1603, 1604, 1605, and 2301.

Source: UNSD Comtrade. Viewed at: <http://comtrade.un.org/>

51. Applied tariffs on imports of fish and fish products vary from 0 to 17.5%. In general, the lowest tariffs apply to inputs, such as fish fry and other cultivation material.

## (iii) Fisheries policy

52. Fisheries policy is the responsibility of the Bureau of Fisheries in the Ministry of Agriculture. The main law governing fisheries is the Fishery Law of 1986, which was revised in 2004 to place greater emphasis on the conservation of fishery resources.<sup>32</sup> Under this Law, the State Council gives management instructions and targets to various departments and ministries. Below the Bureau of Fisheries, there are local fisheries authorities responsible for implementing the Fishery Law. The

<sup>31</sup> Ministry of Agriculture online information, *Featured Fishery*. Viewed at: [http://english.agri.gov.cn/sa/ca/fa/201001/t20100112\\_1572.htm](http://english.agri.gov.cn/sa/ca/fa/201001/t20100112_1572.htm) [February 2012]; and Guifang Xue (2006), pp 651-658.

<sup>32</sup> The Fisheries Law of the People's Republic of China (2004 Revision) is available in English at: [http://www.fdi.gov.cn/pub/FDI\\_EN/Laws/GeneralLawsandRegulations/BasicLaws/P020060620320441563935.pdf](http://www.fdi.gov.cn/pub/FDI_EN/Laws/GeneralLawsandRegulations/BasicLaws/P020060620320441563935.pdf) [February 2012].

Fisheries Law Enforcement Command of China is in charge of the coordination of fisheries law enforcement, while Fisheries Management and Fishing Port Superintendence Bureaux of each regional sea (Yellow Sea and Bohai Bay, East China Sea, South China Sea) are in charge of law enforcement. The Bureau of Fishing Vessel Inspection in the Ministry of Agriculture is responsible for technical inspections of fishing vessels.<sup>33</sup>

53. China has fishing activity agreements with Japan (1997), South Korea (2000), and Viet Nam (2005), which are designed to address the creation of cooperative management regimes for their shared fisheries stocks.

54. China's fisheries policy generally restricts the development of coastal and inshore fisheries, and encourages the improvement of aquaculture and distant-water fisheries. Management of domestic marine fisheries is based on the 'minus growth' objective put forward in 2001 with a goal of gradually reducing the number of marine fishing vessels compared to 2002. Under this objective, China has implemented a series of measures including closed zones, seasonal closures, fleet buybacks and licensing schemes.

55. It has been claimed that there is some unregulated fishing, particularly among the fisheries operating within neighbouring EEZs.<sup>34</sup> In order to reduce illegal fishing, China requires all vessels to have valid fishing licences. In 2005, China operated 41 enforcement vessels to monitor its EEZ for illegal operations, and is implementing more control on vessel construction. Additionally, the Chinese Fishery Enforcement Command is cooperating with other countries' fisheries enforcement agencies to prevent illegal fishing in the North Pacific Ocean.

56. Under the revised Fisheries Law, the State may support the development of ocean fishery industry by taking measures in finance, credit, and taxation (Chapter III, Article 21). Furthermore, in 2006, the Ministry of Agriculture set out an Action Plan to encourage oceanic and transoceanic fishing and to speed up the development of distant-water fishing during the 11<sup>th</sup> Five-year Plan and beyond.<sup>35</sup>

57. Under the 11<sup>th</sup> Five-Year Plan, the Government provided funds for scrapping old vessels and encouraging fishermen to expand aquaculture or get involved in non-fisheries-related industries. Extra funding from local governments, and additional funds were made available for enforcement of fisheries legislation as well as retraining, job creation, and tax breaks for ex-fishermen and for stock enhancement and habitat improvement. It was reported that ¥270 million per year was allocated for compensation to fishermen withdrawing from offshore fishing.<sup>36</sup>

58. Official data on the value of support to the fisheries sector were not available. Estimates of the value of these supports vary widely depending on the source and methodology used. One report stated that the total value of support by the State to fishing was estimated to be US\$4.1 billion in 2003, of which US\$2.2 was for vessel construction, fuel infrastructure, and other supports to fishing activities, with fuel accounting for US\$1.8 billion.<sup>37</sup> It has also been reported that, under a programme introduced in 2006, a fuel subsidy is payable when the price of petrol exceeds ¥4,400 per tonne and that of diesel exceeds ¥3,870 per tonne. The subsidy covers 50% of the price over these

<sup>33</sup> FAO (2002-2011).

<sup>34</sup> Yu and Yu (2007).

<sup>35</sup> Ministry of Agriculture online information, *Featured Fishery*. Viewed at: [http://english.agri.gov.cn/sa/ca/fa/201001/t20100112\\_1572.htm](http://english.agri.gov.cn/sa/ca/fa/201001/t20100112_1572.htm) [February 2011].

<sup>36</sup> Zhou (2007), and Guifang Xue (2005), p. 197.

<sup>37</sup> Sumaila et al. (2009).

thresholds and 100% for prices over ¥5,480 for petrol and ¥5,070 for diesel. It was reported that the fuel subsidy covers fishery enterprises and fishers that use motorized fishing vessels for near-shore and inland fishing and aquatic production, as well as state-owned forestry and urban public transportation companies. According to some media reports, in 2006, two batches of fuel subsidies at ¥3.18 billion were allocated, and the implementation of the policy is to be strengthened under the 12<sup>th</sup> Five-Year Plan (2011-2015).<sup>38</sup>

### **(3) ENERGY**

#### **(i) Policy objectives for the sector**

59. China's medium- and long-term objective for its energy sector is "to establish a stable, economical, clean and secured energy supply system so to meet the demand from social and economy development". Since its previous Review, China has further emphasized cleanness, safe use of energy, and energy security in its objectives.

60. China has established a state-level organization on energy, the National Energy Commission (NEC), headed by the Premier of the State Council. The NEC acts as coordinating and consultation body, responsible for drafting the national energy strategy, and reviewing key issues associated with national energy security and development. The National Energy Administration (NEA)<sup>39</sup>, under the NDRC, performs executive functions as the regulator, and as the general office of the NEC. In principle, the NEA has a broad mandate over the whole energy sector, i.e. coal, oil, gas, electricity (including nuclear power), new energy, and renewable energy (including hydro power). The NEA is also the regulator of oil refinery, coal fuel, and fuel ethanol industries. Petrochemical and coal-chemical industries that are not under the jurisdiction of the NEA are regulated by MIIT.<sup>40</sup> The State Electricity Regulatory Commission (SERC) is the regulator of the electricity sector. In energy pricing, NEA has a consulting role for NDRC.

61. The NEA issued the National 12<sup>th</sup> Five-Year Plan for Energy Technology on 5 December 2011, with the aim of supporting the development of "strategic emerging industries" and of the energy sector. Implementation measures for the plan were not available to the Secretariat.

62. The authorities indicate that the Energy Law, which is intended to be comprehensive for the energy sector, is in the final stages of drafting.

#### **(ii) Electric utilities**

63. The revised Law on Renewable Energy entered into force on 1 April 2010; the revised law stipulates that the Government is to implement unified administration of the development and utilization of renewable energy, including to adopt a system of guaranteed full purchase of electricity generated from renewable energy. The law also states that development and utilization of renewable energy is the priority for national energy development, and "encourages" all enterprises, including foreign firms, to participate in the development of renewable energy.

<sup>38</sup> English.xinhuanet.com. Viewed at: [http://news.xinhuanet.com/english2010/china/2011-03/07/c\\_13765575.htm](http://news.xinhuanet.com/english2010/china/2011-03/07/c_13765575.htm); and *People's Daily* online, "20 mln fishermen benefit from China's subsidy mechanism: official", 7 March. Viewed at: <http://english.peopledaily.com.cn/90001/90778/90860/7311555.html> [November 2011].

<sup>39</sup> The Institutional Reform Programme of the State Council, 2008. Viewed at: [http://www.gov.cn/2008lh/content\\_921411.htm](http://www.gov.cn/2008lh/content_921411.htm).

<sup>40</sup> Online information. Viewed at: [http://www.gov.cn/gzdt/2008-07/29/content\\_1058473.htm](http://www.gov.cn/gzdt/2008-07/29/content_1058473.htm).

64. The Administration Measures on Power Grid Enterprises' Full Purchase of Electricity Generated by Renewable Energy<sup>41</sup> provides that on-grid electricity generated by renewable energy power plants must be purchased by distributors (regional monopolies) within the coverage of the their power grids. In terms of power generation scheduling, changes are being made to operational procedures for distributors whereby power plants with lower fossil fuel consumption will have priority access.

65. Private investment, including foreign investment, is encouraged in the development of renewable energy sector. In the new "36-clause on Private Investment" (State Council Circular 2010/13), domestic private capital is "encouraged" to build new energy sectors such as wind power, solar power, geothermal power, and biomass power. Electricity generation from wind power, solar power, or biomass power is also listed in the "encouraged" section of the *Catalogue for the Guidance of Foreign Investment Industries*.

66. While nuclear energy is not included in the law's definition of renewable energy, China also promotes electricity generation with nuclear energy; as in the case of renewable energy, FDI is encouraged.

### (iii) Oil and gas

67. Since 1 November 2011, the resources tax<sup>42</sup> with *ad valorem* rates between 5% and 10% of sales has been levied on crude oil and natural gas produced in China, and tax preferences have been given to thickened oil, high pour point oil, high sulfur-containing natural gas, and other oil and gas products; this applies equally across domestic firms (including contractual joint-ventures).<sup>43</sup> Previously, domestic oil and gas producers paid the resources tax at specific rates on outputs, while contractual joint-ventures exploiting petroleum resources, onshore or offshore, paid mine usage levies at excess progressive rates on total outputs.<sup>44</sup>

68. The price of refined oil is capped under the guided "ceiling price" decided by NDRC. The current pricing mechanism, introduced in May 2009, allows NDRC to adjust the guided price when the moving average of prices over 22 consecutive trading days fluctuates more than 4% in the international oil markets.<sup>45</sup> The authorities are currently studying a new pricing mechanism for refined oil.

69. Pricing for gas is also under government "guidance". The current pricing mechanism for onshore natural gas is "cost plus" to determine "the benchmark ex-factory price" of gas; the benchmark ex-factory price is adjusted once a year. There are no relevant rules on the ex-factory price of offshore natural gas. The authorities indicate that there is to be a review of the current pricing

---

<sup>41</sup> SERC Decree 2007/25.

<sup>42</sup> The resources tax, levied on offshore oil produced in China, belongs to central government's revenues.

<sup>43</sup> Relevant regulations include: the revised Interim Regulation on Resources Tax; revised Regulations on Exploitation of Offshore Petroleum Resources in Cooperation with Foreign Enterprises (State Council Decree 607); and revised Regulations on Exploitation of On-shore Petroleum Resources in Cooperation with Foreign Enterprises (State Council Decree 606).

<sup>44</sup> Under the revised regulation, contractual joint-ventures with petroleum exploitation contracts signed before 1 November 2011 will continue to pay the mine usage levies (but not resources tax) until the contracts expire; operations under new contracts or contracts renewed on or after 1 November 2011 are to be subject to resources tax.

<sup>45</sup> Interim Administration Measures for Oil Prices (Fa Gai Jia Ge 2009/1198).

mechanism and a study on a new price formula mechanism for gas; pilot reform programmes on gas pricing are currently being carried out in Guangdong Province and Guangxi Autonomous Region.

70. Oil companies in China are subject to reserve requirements under the national oil reserve programme. The current capacity under the programme is 16.4 million cubic meters.

71. China has no legal provisions on energy trade through pipelines. Currently, there are three pipelines for oil and gas imports to China, with Kazakhstan, Turkmenistan, and Russia.

#### **(4) MANUFACTURING**

##### **(i) Recent development**

72. During the period under review, the Government continued to implement industrial revitalization plans for ten sectors announced in 2009 (for the period 2009 to 2011).<sup>46</sup> Policy devices used in the revitalization plans include tax- and non-tax incentives. Tax incentives include tax and tariff reductions, VAT exemption, and export tax rebates. Non-tax incentives include measures to: encourage and support industry restructuring through M&As; enhance the finance and credit-support environment; and strengthen R&D activities. The authorities state that these policies are applied equally to domestic and foreign-invested enterprises.

73. On 10 October 2010, the State Council announced that it intended to accelerate the development of seven "strategic emerging industries", aiming to increase their GDP share to 15% by 2020.<sup>47</sup> Detailed implementation guidance is being drafted at the central level. China has established a number of funding programmes and funds for "strategic emerging industries" since 2011. These are financed by the central or provincial budgets. They aim to provide funding support for common technology development in the "strategic emerging industries", such as energy conservation and environmental protection, new-generation information technology, biotechnology, new materials, intelligent equipment manufacturing, new energies, and new-energy vehicles. These funding programmes are open for all enterprises established in China, and are through equity participation in venture investment funds. On a local government level, Beijing, Heilongjiang, Anhui and Guangdong have established special funds to support "emerging industries".<sup>48</sup>

74. As part of the revitalization plans for ten sectors, China announced policies of "two going to countryside; two part-exchange", i.e. "domestic appliances and automobile vehicles going to countryside" and "domestic appliances and automobile vehicles part-exchange". Under these policies, a total of ¥12 billion was spent as consumption subsidies for 2009-10.<sup>49</sup> Subsidies for automobiles

---

<sup>46</sup> The ten sectors are: automobiles; iron and steel; equipment manufacturing; petrochemical industry; non-ferrous metals; textiles and clothing; electronics and information; shipbuilding; light industries; and logistics. Viewed (in Chinese) at: [http://www.gov.cn/zwgk/2009-04/02/content\\_1276054.htm](http://www.gov.cn/zwgk/2009-04/02/content_1276054.htm).

<sup>47</sup> State Councils' Decision to Accelerate the Development of Strategic Emerging Industries (State Council Circular 2010/32). The seven industries targeted in the Decision are: new-generation information technology; high-end equipment manufacturing; advanced materials; new-energy cars; energy saving and environmental protection; alternative energy; and biotechnology.

<sup>48</sup> Press release by MOF, 31 October 2011. Viewed at: [http://www.mof.gov.cn/xinwenlianbo/quanguocaizhengxinxilianbo/201110/t20111031\\_603378.html](http://www.mof.gov.cn/xinwenlianbo/quanguocaizhengxinxilianbo/201110/t20111031_603378.html).

<sup>49</sup> ¥5 billion was assigned for automobiles going to the countryside, for the period 1 March 2009 to 31 December 2009 (the automobile industry revitalization plan); ¥5 billion for automobile part-exchanges for 2009; and ¥2 billion for domestic appliance part-exchanges for 2009 (the Circular on Implementation of Encouraging Automobile and Domestic Appliance Part-Exchange, Guo Ban Fa 2009/44).



going to the countryside terminated in 2011.<sup>50</sup> The authorities indicate that the policy of "two going to countryside" generated domestic sales of over ¥50 billion and the policy of "two part-exchange" generated consumption of over ¥17 billion for 2009-10.<sup>51</sup>

75. Industries with excess capacities or industries of intensive energy consumption or high pollution, such as iron and steel, automobiles, textiles and clothing, petrochemicals, and light industry, face the need for structure adjustment.<sup>52</sup> The authorities intend to implement structural adjustment through the revision of the industry catalogues<sup>53</sup> and administrative orders.<sup>54</sup>

76. With a view to supporting R&D activities, China continues to provide eligible enterprises (including FIEs) with preferential tax treatment, such as reductions or exemptions, and cash subsidies.<sup>55</sup> In addition, certified high-tech enterprises are granted tax concessions. Any enterprise registered in China may apply for certification of high-tech enterprise status (Table IV.10). To be certified, an applicant must have "self-owned" intellectual property rights over the "core technology", acquired through in-house R&D, transfer or gift, M&A operations, or exclusive licence for more than five years.<sup>56</sup>

**Table IV.10**  
**Certified high-tech enterprises by sector, 2009-11**

	2009	2010	2011
<b>Electronics and IT</b>			
Number of applicant enterprises	566	791	771
Number of authenticated enterprises	459	507	121
SOEs	42	24	7
Domestic private	95	342	83
FIEs	322	141	31
<b>Advanced materials</b>			
Number of applicant enterprises	347	458	489
Number of authenticated enterprises	278	315	114
SOEs	47	28	3
Domestic private	50	150	56
FIEs	181	137	55

*Source:* Information provided by the authorities. No statistical information was available on the machinery and equipment, and automobile subsectors.

<sup>50</sup> Subsidies for motorbikes going to the countryside continue until 31 January 2013.

<sup>51</sup> Minister Chen Deming's answer to journalists at a press conference during the National People's Congress, 7 March 2011.

<sup>52</sup> For information on industries with excessive capacities see State Council's Circular of Several Opinions about Suppressing Certain Industries with Excessive Capacities and Duplication so to Guide a Healthy Development of Industries (State Council Circular 2009/38); and State Council's Circular on Further Strengthening the Work of Backward Capacities Elimination (State Council Circular 2010/7).

<sup>53</sup> Catalogues of processing trade industries have been revised twice since the last Review of China. A new version of the *Catalogue of Industrial Structure Adjustment Guidance* was released by NDRC in March 2011.

<sup>54</sup> Administrative orders include closure of high energy consumption/highly polluting SMEs, and denial of applications for "purely" new investment projects that are of high energy consumption or high pollution.

<sup>55</sup> WTO documents G/SCM/N/155/CHN, 21 October 2011 and G/SCM/N/186/CHN, 21 October 2011.

<sup>56</sup> For detailed criteria, please see Administrative Measures for Authentication of High-Tech Enterprises; and the Operational Guideline for Administration of High-Tech Enterprises Authentication. Viewed at [http://www.most.gov.cn/gxjscopykfq/wj/200810/t20081029\\_64626.htm](http://www.most.gov.cn/gxjscopykfq/wj/200810/t20081029_64626.htm).

77. China maintains a policy to develop advanced machinery manufacturing, optimize natural-resources processing, and upgrade consumer goods industries.<sup>57</sup> During the review period, the Government continued to employ measures to "guide" resources into certain sectors of the economy, particularly manufacturing. The Ministry of Industry and Information Technology (MIIT) is the main regulator for the manufacturing sector. MIIT is responsible for developing industrial strategies, making industry plans and standards, and monitoring the operations of the industry. The National Development and Reform Commission is also responsible for coordinating industry development, promoting the use of key technology and equipment, and developing industry upgrade strategies. The Ministry of Science and Technology (MOST) is also involved in industrial policies for the high-tech manufacturing.

**(ii) Selected subsectors**

**(a) Automobiles, automotive parts, and components**

78. China has abolished local-content requirements for automobile manufacturing enterprises since August 2009.<sup>58</sup> The local-content requirements contained in the Management Measures for the Import of Auto Parts Used to Complete a Car were eliminated on 1 September 2009. Other import and export measures in the automotive sector remain unchanged; an automatic import licence is required from the MOFCOM, and the importation of used vehicles, parts and components are prohibited. Three ports have been opened for imports of complete vehicles since 2009, Khorgos (land route), Qinzhou (costal), and Jiangyin Port Zone of Fuzhou Harbour; previously, imports of complete vehicles were permitted only through four coastal ports, two terrestrial ports, and Alataw Pass.

79. Production of "new-energy cars" is subject to approval by NDRC and MIIT. In order to qualify, enterprises must "master" core technology in at least one of the following: vehicle energy systems, drive systems, or control systems. The qualified enterprises must have the capacity to produce prototypes of new-energy cars.<sup>59</sup> The authorities state that no technology transfer requirement is imposed; they consider that the requirement to "master" core technology of new-energy cars is necessary to guarantee the safety and quality of products.<sup>60</sup>

80. China also launched a series of new polices in January 2009 to promote the use of energy-efficient and new-energy automobiles.<sup>61</sup> The *Promotion Catalogue of Energy-saving Automobiles* is published jointly by NDRC, MIIT and the Ministry of Finance.<sup>62</sup> Consumers that

<sup>57</sup> Chapter 9 of the 12<sup>th</sup> Five-Year Plan.

<sup>58</sup> Articles 52, 53, 55, 56, 57 of the Automobile Industry Development Policy (2004 version) ceased effect from 1 September 2009.

<sup>59</sup> For details see the NDRC Rules on Access Administration of New Energy Automobiles Production (with effect 1 November 2007), the MIIT Rules on Access Administration of New Energy Automobiles Manufacturing Enterprises and their Products (with effect 1 July 2009).

<sup>60</sup> WTO document G/L/963, 10 October 2011.

<sup>61</sup> See the Circular on the Pilot Programs for Demonstrating and Popularizing Energy-saving and New Energy Cars, and the Interim Measures for the Management of Financial Aid to Demonstrate and Popularize Energy-saving and New Energy Cars, issued jointly by MOF and MOST in January 2009; the Interim Administration Measures for Financial Aid for Private Purchase of New Energy Cars, enacted by MOF, MOST, MIIT and NDRC in May 2010; the Detailed Implementation Measures for Promoting Energy Efficient Automobiles (vehicles with a cylinder capacity of 1,600 cc and below) under the project of Energy Efficient Products Benefit People, issued jointly by MOF, NDRC, and MIIT (Cai Jian 2010/219) on 26 May 2010.

<sup>62</sup> The current version of the *Promotion Catalogue of Energy-saving Automobiles* is Version 7. See Announcement 2011/26, issued jointly by NDRC, MIIT, and MOF.

purchase new cars listed in the catalogue are entitled to a lump sum subsidy of ¥3,000 (up to ¥60,000 for new-energy cars).<sup>63</sup>

81. MIIT announced making industrial standard for new-energy automobiles one of the key tasks in 2010 and 2011. The Industrial Planning for New Energy Automobiles is being drafted.

82. The Opinions to Promote the Development of Remanufacturing Industry, issued jointly by NDRC and some other ministries and agencies<sup>64</sup>, in May 2010, lists manufacturing of auto parts as a key project for development, and introduces a pilot programme to deepen the remanufacturing of auto parts. NDRC also adds producing key parts of new-energy cars under the category of automotive in the newly revised *Catalogue of Industrial Structure Adjustment* (2011 version). Manufacturing parts for new-energy cars is also added into the encouraged category in the *Catalogue of Guidance for Foreign Investment* (2011 version). The authorities note that a revision of the Automobile Industry Development Policy is being drafted.

(b) Electronics and information technology (IT)

83. Domestic private and foreign-invested enterprises are active in the electronics and IT sector. In 2010, FIEs accounted for 72.3% of the sector's total sales.

84. The Circular on Certain Policies for Further Encouragement to Development of Software Industry and Integrated Circuit Industry<sup>65</sup>, promulgated on 28 January 2011, "further encourages to develop" manufacturing of integrated circuits. Under the Circular, eligible companies are accorded preferential tax treatment, including business tax exemption, enterprise income tax exemption and reduction for five years, and tariff exemptions for imported critical equipment. For enterprises that invest more than ¥8 billion or manufacture integrated circuits with line width less than 0.25 µm, more favourable tax concessions will be granted.<sup>66</sup>

85. The authorities expect the Development Fund for Electronics (IT Fund) to enhance its support to core technology development.<sup>67</sup> The Fund was established in 1986 with a view to supporting R&D activities in software, integrated circuits, and other informatics industries.

(c) Machinery and equipment

86. The machinery and equipment subsector accounted for about 19% of China's total industrial value added, and more than 9% of GDP in 2010. Under the 12<sup>th</sup> Five Year Plan, the subsector is projected to grow at an average annual rate of 12%.

87. Large equipment, "critical" parts and components for large equipment, and complementary equipment for large equipment were listed as "encouraged" in the *Catalogue of Industrial Structure*

---

<sup>63</sup> MOF Circular on Adjusting Subsidy Policy for Energy-saving Automobile Promotion (Cai Jian 2011/754), promulgated on 7 September 2011. Details of subsidies on new-energy cars are in the Interim Administration Measures for Subsidies to Private Purchase of New Energy Cars (Cai Jian 2010/230), issued jointly by MOF, MOST, MIIT, and NDRC on 31 May 2010.

<sup>64</sup> These include MOST, MIIT, Ministry of Public Security, MOF, Ministry of Environment Protection, MOFCOM, General Administration of Customs, SAT, SAIC, and AQSIQ.

<sup>65</sup> State Council Circular 2011/1.

<sup>66</sup> For detailed information on tax preference for the manufacture of integrated circuits, see WTO documents G/SCM/N/155/CHN and G/SCM/N/186/CHN, 21 October 2011.

<sup>67</sup> Minister Miao Xu of MIIT at the Exhibition of Achievements Supported by the Electronics Development Fund during the 11<sup>th</sup> Five-year Plan on 26 June 2011.

*Adjustment.* For example, manufacture of aircraft, aircraft parts and components, and other airborne equipment was listed in the "encouraged" machinery manufacturing in the catalogue. New-energy and energy-saving equipment were added to the 2011 version of the catalogue as "encouraged". On 17 August 2011, MIIT announced the Agricultural Machinery Development Policies (MIIT Announcement 2011/26) with the aim of optimizing the manufacture of agricultural machinery; the policies also identified key areas of technology development for agricultural machinery; tax incentives are granted for manufacturing and R&D activities concerning agricultural machinery.<sup>68</sup>

88. In the Certain Opinions on Actively Implementing the Promotion Strategies for Imports of Electrical & Machinery Products during the 12<sup>th</sup> Five-Year Plan, issued on 4 March 2011<sup>69</sup>, the authorities specified strategies for machinery imports as: to optimized the structure of imported products composition by gradually increasing the import share of advanced technologies, key equipment, and key parts and components<sup>70</sup>; to satisfy the need for development of strategic emerging industries.<sup>71</sup> Details were not available to the Secretariat on how the import promotion strategies are to be implemented.

(d) Iron and steel

89. In 2010, the gross output of the iron and steel subsector was ¥5,760 billion, of which about 35% was contributed by SOEs, and about 12.3% by FIEs. In the same year, 42.56 million tonnes of steel materials were exported, while 16.43 million tonnes were imported, with net crude steel exports of 27.26 million tonnes. Some 32 enterprises had crude steel output of over 5 million tonnes per year, accounting for about 76% of China's crude steel output.

90. The iron and steel subsector is characterized by excess capacity. The Steel Industry Revitalization Plan showed the capacity of steel production at end-2008 at 660 million tonnes while domestic demand was about 560 million tonnes. The authorities noted that the excess capacity is mainly in "lower-end" steel production.

91. The Steel Industry Revitalization Plan set the goal of eliminating 72 million tonnes of iron production capacity and 25 million tonnes of steel production by the end of 2011. These included the elimination of 25 million tonnes of iron production capacity, and 6 million tonnes of steel production capacity in 2010. The authorities stated that the targets for 2010 was achieved.<sup>72</sup>

92. MIIT issued elimination targets for "backward capacity" to provinces, and published a list of outdated equipment, and of enterprises with backward production technology to be closed down. The outdated equipment was to be demolished by the end of 2011. Failure to do so would result in the revocation of permits and licences concerning production, safety, and the use of sewage, or suspension of power supplies.<sup>73</sup> Regulations also limited the number of approvals for new investment

<sup>68</sup> WTO documents G/SCM/N/155/CHN and G/SCM/N/186/CHN, 21 October 2011.

<sup>69</sup> Shang Chan Fa 2011/48.

<sup>70</sup> This is expected to be achieved through revisions of various catalogues, including the *Catalogue of Encouraged Imported Technologies and Products*.

<sup>71</sup> This would complement other industrial policies.

<sup>72</sup> Joint Announcement by MIIT and NEA (MIIT Announcement 2011/36) on 29 October 2011. Viewed at: <http://www.miit.gov.cn/n11293472/n11293877/n13138101/n13138118/14323368.html>.

<sup>73</sup> For details see MIIT Circular on the Implementation Plan for Elimination of Backward Production Capacity (GONG XIN BU LIAN CHAN YE 2011/46, 26 January 2011).

in the steel sector so as to strictly control new production capacity. Nonetheless, the capacity of crude steel production continues to rise; the actual capacity was 683 million tonnes as of the end of 2011.<sup>74</sup>

93. On the other hand, the authorities intend to increase the output proportion of "higher-end" steel. Production of high-end steel materials is listed in the "encouraged" category of the 2011 *Catalogue for the Guidance of Foreign Investment Industries*. China imported 16.43 million tonnes of "higher-end" steel in 2010.

## **(5) SERVICES**

### **(i) Overview**

94. China's trade in services (imports and exports) reached US\$362.4 billion in 2010, a five-fold increase compared with 2001 (US\$71.9 billion) and year-on-year growth of 26.4% (US\$286.71 billion in 2009). Services trade accounts for 10.9% of the total value of exports and imports of goods and services, slightly less than in 2009 (11.5% of the total). Exports accounted for US\$170.25 billion while the imports accounted for US\$192.17 billion; therefore, China continued to run a structural services deficit. In 2010, overall, services accounted for 43.4% of Chinese GDP, an increment of nearly three percentage points in six years (2004, 40.5%) and of 0.4% over 2009. Some 14,852 foreign-invested services enterprises were established in China in 2010, an increase year on year of 21.6%, while the stock of foreign services investment was US\$49.96 billion, a year-on-year increase of 29.6%.

95. According to the authorities, China's general policy is of gradual, progressive, and managed opening, with a view to promoting development through a win-win strategy for both domestic and foreign services suppliers. Since 2009, the Chinese Government has formulated or revised at least these regulations and policies to promote further services liberalization in: travel agencies (via the Regulations on Travel Agency, January 2009, and the Interim Measures for the Supervision of Outbound Tourist Business Operated by Sino-foreign Joint Venture as A Pilot Program, August 2010), financial information services (via the Regulations for the Management of Financial Information Services Provided by Foreign Institutions in China, April 2009); financial services (via the Interim Measures for the Management of Financing Bonding Companies, March 2010); medical services (via the Opinions on further Encouraging and Directing Social Capitals to Establish Medical Institutions, November 2010; and publishing (via the Regulations for the Management of Publications Market, March 2011). In addition, the Opinions of the State Council on further Utilization of Foreign Investment, April 2010 have further liberalized investment in several services sectors/areas.

### **(ii) Financial services**

96. The structure of China's financial services remains dominated by banks over other types of financial institutions. In terms of market capitalization, the Chinese stock market accounted for about 66.69% of GDP in 2010. The ratio of total bank credit to GDP in China was about 19.81%.

97. During the period under review, China further opened its financial services to foreign investors.<sup>75</sup>

---

<sup>74</sup> *China Construction Journal* report. Viewed at: <http://www.nbc.com.cn/zxqyzq/sczx/xykx/09/18455.shtml>.

(a) Banking

*Recent development*

98. Since its previous Review, there has been little change in the market structure of China's banking sector, which is dominated by state-owned banks. The five largest state-owned commercial banks (SOCBs)<sup>76</sup> accounted for about 50% of the total assets of financial institutions during the review period. The remainder is attributed to foreign-owned commercial banks, joint-stock banks (JSBs), city commercial banks (CCBs), and rural commercial banks; recent policies encourage private investment in CCBs and rural commercial banks.<sup>77</sup>

99. The authorities consider that the "big four" SOCBs completed their corporatization when the Agricultural Bank was listed in July 2010.<sup>78</sup> According to the authorities, lending decisions by SOCBs are based entirely on commercial consideration. Policy banks in China are the Agriculture Development Bank of China and the Export-Import Bank of China.

100. As of end 2010, there were 37 wholly foreign-owned banks, 2 joint-venture banks, and 1 wholly foreign-owned finance companies established in China. There were also 74 foreign banks with a total of 90 branches.<sup>79</sup> In addition to local currency business, foreign presences in the Chinese banking sector can be seen as strategic investors in Chinese domestic banks. Except for the Agriculture Bank of China, the "big four" SOCBs, eight JSBs and 11 CCBs have foreign strategic investors as of March 2011. The main foreign investors in a Chinese bank typically appoint one or two directors and do not take a management role.

101. The disposal of NPLs has progressed. The authorities maintain that the five largest SOCBs did not transfer any NPLs to asset management companies in 2009 and/or 2010. At end 2010, the five largest SOCBs had total NPLs of ¥312.52 billion, and their NPL ratio was 1.3. The rapid accumulation of debts of local governments in recent years, together with loose credits to infrastructure through the 2009 stimulate package, raised concerns of another surge of NPLs.<sup>80</sup>

---

<sup>75</sup> In the State Council's Certain Opinions on Further Improvement of Utilizing Foreign Capitals (State Council Circular 2010/9, promulgated 13 April 2010), China encourages foreign banks to operate in the mid-west region, and foreign investors to establish venture capital enterprises; China also supports foreign capital investment in domestic equities, and encourages FIEs to issue stocks, bonds, and commercial papers.

<sup>76</sup> These are: Bank of China, Industrial & Commercial Bank of China, Agricultural Bank of China, Construction Bank of China, and Bank of Communications.

<sup>77</sup> Relevant policies include: the State Council's Certain Opinions on Encouraging and Guiding the Sound Development of Private Investment (State Council Circular 2010/13, promulgated 7 May 2010), and CBRC's Guiding Opinions on M&As over High Risk Rural Credit Cooperatives (CBRC Circular 2010/71, promulgated 1 September 2010).

<sup>78</sup> The "big four" are Bank of China, Industrial & Commercial Bank of China, Agricultural Bank of China, and Construction Bank of China. The Agricultural Bank of China, the Bank of China, the Construction Bank of China, and the Industrial and Commercial Bank of China are listed on the Shanghai Exchange and the Hong Kong Exchange.

<sup>79</sup> WTO document S/FIN/M/71, 4 November 2011.

<sup>80</sup> The operation to clean-up loans to the local government financing platform started during the drafting of this review. New loans to these platforms are strictly controlled. For existing loans, cash flow fully-covered loans will be treated as corporate loans.

102. Large commercial banks had met the standards of the Basel II Accord by the end of 2010.<sup>81</sup> The China Banking Regulatory Commission (CBRC) is currently carrying out assessment, examination, and approval in relation to large banks' implementation of new Basel Accord. In April 2011, the CBRC issued a Guideline for Implementation of New Regulatory Standards (CBRC Circular 2011/44), and required the start of the implementation of Basel III on 1 January 2012. Basel III standards are expected to be met by the end of 2013 for "systemically important banks", and by the end of 2016 for "non-systemically important banks".<sup>82</sup> The guideline explicitly stresses the definition of "systemically important banks" and prudential surveillance. Systemically important banks are to be required to issue self-salvage bonds. The authorities noted that the list of domestic systemically important banks has not published, and the Bank of China was on the list of 29 global systemically important banks as of November 2011.<sup>83</sup>

103. Deposits at the China Postal Savings Bank amounted to ¥3,919.59 billion at end 2011. The Bank is subject to the same laws, regulations, and rules as other banks, as well as enterprise income tax. According to the authorities, the bank is recognized as a community bank or rural bank with extensive outlets across the nation, especially in the countryside.

#### *Non-bank financial institutions*

104. Since 12 February 2010, foreign investors have been allowed to establish wholly owned personal consumption finance companies; previously foreign investment in personal finance was allowed only in the subsector of auto loans, through establishment of wholly owned or joint-venture auto-finance companies. Personal consumption finance companies are not allowed to engage in auto loan business.

105. "Financing bonding companies", which conduct credit guarantees, are regulated by the Interim Administration Measure for Financing Bonding Companies (CBRC Decree 2010/3). The regulator for financing bonding companies is a competent agency appointed by the Government at the provincial level (including minority autonomous regions, and municipalities). The authorities noted that foreign investment in financial bonding companies is neither prohibited nor restricted.

106. Since 22 July 2009, foreign financial institutions, with presence in China for more than two years, have been allowed to become principal investors (up to 100% ownership) of a consumer finance company, in accordance with the Administration Measures for the Pilot Programme of Consumer Finance Companies (CBRC Decree 2009/3).<sup>84</sup> Previously, investment by foreign financial

---

<sup>81</sup> "Large commercial banks" are banks that play an active role in other countries' or regions' financial markets, and whose overseas business constitutes a substantial share of their total business activities. Other commercial banks, including foreign bank subsidiaries in China, may implement Basel II on a voluntary basis.

<sup>82</sup> The new regulatory standards introduce three new capital requirements to replace the current two minimum capital adequacy ratio requirements, i.e. core tier 1 capital ratio  $\geq 5\%$ , tier 1 capital ratio  $\geq 6\%$ , and total capital ratio  $\geq 8\%$ ; introduce a counter-cyclical capital supervision framework: 2.5% conservation buffer, and 0-2.5% counter-cyclical capital buffer; set the gross leverage ratio (4%) as a back-stop control measure; and establish the loan provision rate and the provision coverage rate: loan provision rate  $\geq 2.5\%$ , provision coverage rate  $\geq 150\%$ .

<sup>83</sup> Financial Stability Board (2011).

<sup>84</sup> As per the Administration Measures for the Pilot Programme of Consumer Finance Companies (CBRC Decree 2009/3), the principal investors of a consumer finance company must satisfy the following conditions: (1) more than 5 years of business experience in consumer finance; (2) gross assets not less than ¥60 billion (or equivalent value in other convertible currencies) at the end of the most recent year; (3) continuously making profits in the most recent 2 consecutive fiscal years; (4) no record of major violations in the most recent 2 years; (5) legal investment capital, i.e. loans or trusted funds are allowed; (6) guarantee for

institutions was only allowed in auto finance companies.<sup>85</sup> At the end of 2010, there were four consumer finance companies, including one fully foreign-owned company and two joint-ventures.<sup>86</sup> Subsidiaries of foreign banks are allowed to engage in personal loans business as provided in the Interim Administration Measures for Personal Loans (CBRC Decree 2010/2, 12 February 2010). Credit to individuals (through consumer loans, housing mortgages, and auto loans) has grown significantly since China's previous Review.<sup>87</sup> The average NPL ratio in this sector was 0.17%. Foreign presence is significant in the auto loans sector; 11 out of 13 auto-loans companies are foreign invested, including 6 wholly foreign-owned and 5 joint ventures.

107. The authorities state that bankcard interbank clearing services fall in the category of "financial settlement and clearing services for financial assets", which China has not committed to liberalize since its accession to the WTO in 2001.

#### *Regulatory framework*

108. The laws and regulations in China's banking sector, including the licensing requirement and procedures, have remained largely unchanged since its previous Review. The main legislation regulating the sector includes: the Law on the People's Bank of China, the Law on Commercial Banks, the Law on Regulation and Supervision of the Banking Sector, and the Anti-Money Laundering Law. The authorities noted that all regulatory measures apply equally to domestic and foreign enterprises.

109. Commercial banks in China are subject to a multi-layered regulatory framework involving: the People's Bank of China (PBC) (e.g. fixing interest rates, and regulating and supervising interbank transactions), the China Banking Regulatory Commission (CBRC, most aspects of banking activities), the China Securities Regulatory Commission (CSRC, conducting fund custodian business), the China Insurance Regulatory Commission (CIRC together with CBRC, conducting bancassurance business), and SAFE (e.g. regulations dealing with foreign exchange business). Additionally, the Ministry of Finance oversees the management of SOCBs' NPLs through asset management companies established to that effect (see below).<sup>88</sup> Among them, the CBRC is the primary authority responsible for the regulation and supervision of banking institutions, as well as overseas operations of local institutions. The PBC is responsible for maintaining financial stability in the market and has the authority to regulate against money laundering and payment settlement; it also has some broad supervisory powers, beyond the normal macro-prudential control of the financial sector.<sup>89</sup>

---

a 3-year lockup period of equities of the consumer finance company in question; (7) healthy corporate governance, and risk management; and (8) meet other compliance standards.

<sup>85</sup> Investors of auto-finance companies must be enterprises that manufacture or market complete automobiles; or non-bank financial institutions (now including foreign institutions).

<sup>86</sup> The four consumer finance companies are: Bank of Beijing Consumer Finance Co. Ltd (wholly owned by Bank of Beijing); Bank of China Consumer Finance Co. Ltd (jointly owned by Bank of China, Brilliance Group, and Shanghai Lujiazui Finance & Development Co. Ltd); Sichuan Jincheng Consumer Finance Co. Ltd (joint-owned by Bank of Chengdu and Hong Leong Bank, Malaysia); and PPF Consumer Finance Co Ltd (wholly owned by PPF Group, Cze).

<sup>87</sup> As of October 2011, consumption loans outstanding were at ¥8,630 billion, accounting for 64.8% of total loans to households, compared with ¥5,121 billion in October 2009.

<sup>88</sup> In addition to the regulators, there are associations (for example, the National Association of Banking Industry and National Association of Finance Companies) that, according to the authorities, ensure industrial self-discipline, business cooperation, and innovation.

<sup>89</sup> The PBC has the power to inspect and supervise: the implementation of regulations on reserve requirements; activities related to special loans granted by the PBC; implementation of foreign exchange



110. China does not have a deposit insurance scheme; the authorities are currently drafting a scheme.

*Licensing requirements and procedures*

111. It would appear that the licensing requirements and procedures have remained unchanged since China's previous Review. The Law on Commercial Banks and the CBRC Rules on the Implementing Procedure for Administrative Licensing define the business scope, and set out licensing and other requirements for domestic-funded commercial banks. The establishment of a commercial bank requires CBRC approval and the issuance of an operating licence.<sup>90</sup> The licensing procedure comprises two steps: the applicant must submit a written application, along with a feasibility study, and "other documents" that may be specified by the CBRC; and the applicant is called upon to complete the application, by providing the required information.<sup>91</sup> If the establishment is approved, the CBRC issues a banking permit. The applicant must then register with the State Administration of Industry and Commerce (SAIC) and obtain a business licence.<sup>92</sup> The expansion of the branching network domestically or overseas also requires CBRC approval, and the issuance of a business licence by the SAIC for domestic branches.<sup>93</sup>

112. Approval by the CBRC is required for changes, *inter alia*, to the institution's name, the amount of registered capital, the location of the head office or any branch, the scope of business (including the introduction of new products or services), shareholders with 5% or more of the bank's shares, and the articles of association.<sup>94</sup> A change in senior management must also be notified to the

---

regulations; implementation of regulations on inter-bank lending and the inter-bank bond market; implementation of regulations aimed at controlling clearing; and implementation of the regulations against money laundering. In addition, the PBC has specific powers concerning the inspection and supervision of banks. In that regard, it may propose the inspection and supervision of specific institutions by the CBRC, and it may conduct such an inspection on its own if the situation of a specific financial institution is likely to increase overall systemic risk.

<sup>90</sup> Under the law, commercial banks may engage in, *inter alia*: taking deposits from the general public; granting loans; handling domestic and foreign settlements; acceptance and discounting negotiable instruments; issuing financial bonds; buying and selling government and financial bonds; interbank lending; buying and selling foreign exchange; providing letter-of-credit services and guaranty; acting as an insurance agent; and other business operations as approved by the banking regulatory authority under the State Council (Article 3 of the Law on Commercial Banks, including the amendment of 27 December 2003).

<sup>91</sup> The required information includes: a draft of the articles of association of the company; certificates of the qualifications of the director; an investment verification certificate issued by a statutory investment verification organization; a list of the names, capital contributions, and shares of shareholders; credit worthiness certificates and relevant information on shareholders with 5% or more of the company's shares; and business policies and plans, and other documents as specified by the CBRC.

<sup>92</sup> Articles 14-16 of the Law on Commercial Banks.

<sup>93</sup> The same procedure applies for opening each additional branch. A branch must have sufficient operating funds for the scale of its business. The sum of operating funds allocated to all the branches must not exceed 60% of total capital of the head office. The applying bank must have maintained a favourable balance in the three most recent accounting years, and fulfil other regulatory requirements (capital adequacy ratio no lower than 8%; balance of equity investments does not generally exceed 50% of net assets; and balance of year-end assets at least ¥100 billion in the year prior to the application). In addition, the applying bank: must have lawful and sufficient sources of foreign exchange funds; must have a good corporate governance structure and a sound and effective internal control system; and its main prudential supervisory indices must meet the supervisory requirements.

<sup>94</sup> Other matters requiring approval of the CBRC include changes in operating funds of local branches of foreign banks or of foreign-invested or joint-venture banks, or the transfer of assets by headquarters to foreign financial institutions in China.

CBRC, and the qualifications of the new management approved.<sup>95</sup> For an SOCB, a board of supervisors must be established, *inter alia*, to oversee its operations and its asset-liability ratio and to maintain and increase the value of state-owned assets.<sup>96</sup> The Law on Regulation and Supervision of the Banking Sector sets out specific time limits for certain decisions.<sup>97</sup>

113. Since China's previous Review, there has been no change in the minimum registered capital requirement to establish a bank, or to the capital adequacy ratio (CAR). Minimum registered capital is ¥1 billion for a commercial bank, ¥100 million for an urban commercial bank, and ¥50 million for a rural commercial bank.<sup>98</sup> In addition, the CAR may not be lower than 8%.<sup>99</sup> Other requirements include: the ratio of loans outstanding by a commercial bank to related parties must be no more than 10% of the bank's total net capital (15% if the borrower is a group); and inter-bank borrowing must be no more than 4% and lending no more than 8% of the total.<sup>100</sup>

114. There is no umbrella licence for banks' operations; nonetheless, a pilot programme on "comprehensive operation" by commercial banks has been in place since 2006 in order to promote innovation in commercial bank operations (e.g. the establishment of fund management companies owned by commercial banks). The authorities noted that the pilot programme does not change the current regulatory framework. Commercial banks may need further authorization to supply specific services, such as derivatives and offshore client wealth management, in accordance with prudential principles and depending on the capacity of individual banks. A separate licence is required for all these services. For example, according to the Provisional Administrative Rules Governing Derivatives Activities of Financial Institutions, commercial banks (including branches of foreign banks) seeking to conduct derivative business must obtain prior approval from CBRC; it must meet various prudential requirements, including on the composition of trading teams and qualification requirements of professionals involved in the supply of these services. According to the Provisional Administrative Measures on Personal Wealth Management Business of Commercial Banks, commercial banks must apply for approval from the CBRC before they may provide certain personal wealth management services with guaranteed incomes.<sup>101</sup>

<sup>95</sup> Article 24 of the Law on Commercial Banks.

<sup>96</sup> Article 18 of the Law on Commercial Banks.

<sup>97</sup> For example, decisions regarding the establishment of banks must be made within six months of the CBRC's receipt of the application; decisions on the introduction of new products or services must be taken within three months; and decisions regarding the fit and proper test of directors and senior managers must be taken within 30 days (Article 22 of the Law on Regulation of and Supervision over the Banking Industry).

<sup>98</sup> Article 13 of the Law on Commercial Banks.

<sup>99</sup> Furthermore, the ratio of outstanding loans to deposits may not exceed 75%; the balance of floating assets to floating liabilities may not be lower than 25%; and the ratio of outstanding loans granted to the same borrower to the balance of the capital of the commercial bank may not exceed 10% (Article 39 of the Law on Commercial Banks).

<sup>100</sup> Further details are given in the Rules on Commercial Banks' Connected Transactions with Insiders and Shareholders (CBRC Decree No. 3 of 2004) and the Rules on Monitoring Indicators and Assessments on Assets/liabilities Ratio Management at Commercial Banks (CBRC Circular No. 450 of 1996).

<sup>101</sup> Furthermore, the Provisional Administrative Measures on Commercial Banks Conducting Offshore Client Wealth Management Services (enacted by CBRC, SAFE and the PBC) authorize commercial banks with the relevant business qualification from CBRC to conduct investment in certain financial products outside China, on behalf of both domestic institutions and China's residents. The commercial bank must already have a foreign exchange business qualification. SAFE will, upon application, grant each qualifying commercial bank a foreign exchange quota for its offshore client wealth management business, within which the bank may invest in foreign exchange financial products with foreign exchange purchased with RMB. Any investment by clients who invest directly with their own foreign exchange (as opposed to RMB-purchased foreign exchange) is not

115. Commercial banks are generally prohibited from: trading and underwriting equity securities (unless they establish a separate subsidiary for that purpose); underwriting insurance policies (they may act as agents to sell insurance products); making domestic investments (other than in debt instruments issued by the Government and financial institutions, commercial paper, and bonds issued by qualified non-financial institutions, and certain derivative products); engaging in trust investment business, securities operations (except trading bonds); investing in real estate other than for their own use; and making equity investments in non-banking financial institutions and entities (unless otherwise specifically decided by the State Council); and supplying financial leasing services directly (other than by establishing a separate subsidiary). Commercial banks must apply to relevant authorities for a separate licence per business in order to carry out the above prohibited business.

116. In 2008, the authorities announced a pilot programme to allow banks to invest in insurance companies. Four banks have been approved to participate in the programme, among which two have been approved to become shareholders of insurance companies. There has been no foreign application for participation.

#### *Foreign banks*

117. The Regulations on Administration of Foreign-funded Banks, and the Rules for Implementing the Regulations on Administration of Foreign-funded Banks<sup>102</sup>, stipulate the requirements (including the minimum registered and paid-up capital and total operating capital) for the establishment of wholly foreign-funded banks, and branches of foreign banks. In addition, foreign investment in Chinese financial institutions is regulated by the Administrative Rules Governing the Equity Investment in Chinese Financial Institutions by Overseas Financial Institutions.

118. Only foreign commercial banks that have maintained a representative office in China for at least two years prior to application, and that have total assets of not less than US\$10 billion at the end of the year preceding the application, may apply to establishment a wholly foreign-funded bank (subsidiary). The same asset requirement applies for the establishment of a Chinese-foreign joint-venture bank. A foreign bank wishing to establish a branch must have total assets of not less than US\$20 billion at the end of the year preceding the application, and must have maintained a representative office in China for at least two years in the area in which it applies to establish its first branch. The minimum asset requirements are higher for the establishment of branches than for locally incorporated entities. In addition, foreign financial institutions wishing to establish any type of operational foreign-funded bank must have persistent profit-earning capacity and a good reputation; have experience in international financial activities; have in place an effective anti-money-laundering system; and be subject to supervision, and have its application approved, by its home country regulator.

119. The minimum registered and paid-in capital for the establishment of a wholly foreign-funded bank or a Chinese-foreign joint-venture bank is ¥1 billion. Branches opened by wholly foreign-

---

counted within the quota. Investment in offshore fixed income products, as well as stocks and high-risk products, is governed by the Circular Concerning the Offshore Client Wealth Management Services by Commercial Banks, and the Circular on the Adjustment in the Scope of Offshore Wealth Management Services of Commercial Banks.

<sup>102</sup> The term "foreign-funded bank" includes: a wholly foreign-funded bank, funded solely by a foreign bank or jointly with any other foreign financial institution; a Chinese-foreign joint-venture bank, jointly funded by a foreign financial institution with a Chinese company or enterprise; a branch of a foreign bank; and a representative office of a foreign bank. The first three categories are referred to by the regulations as "operational foreign-funded banks".

funded banks or Chinese-foreign joint-venture banks in China must be allocated ¥100 million as operating capital. Total operating capital allocated from a wholly foreign-funded bank or a Chinese-joint venture bank to all its branches must not represent more than 60% of the parent bank's aggregate capital. A branch of a foreign bank must be allocated operating capital of ¥200 million.

120. Wholly foreign-funded and Chinese-foreign joint-venture banks may engage in the same business operations as domestic commercial banks, both in local and foreign currency. However, branches of foreign banks may not supply bank cards; the authorities maintain that such restrictions are for prudential reasons and consider that this is standard practice in many other countries. Branches of foreign banks may only receive time deposits of not less than ¥1 million each from Chinese citizens within China. Operational foreign-funded banks wishing to engage in local-currency business must have had their business in China for at least three years, and have been profitable for two consecutive years, prior to the application.

121. Foreign equity participation in domestic financial institutions is restricted. Under the Administrative Measures on Equity Investments of Overseas Financial Institutions in Chinese Financial Institutions<sup>103</sup>, no single foreign financial institution may own more than 20% of the equity of a Chinese financial institution. In addition, if the combined equity investment of all foreign financial institutions in a non-listed Chinese financial institution is equal to or exceeds 25%, the non-listed Chinese financial institution is regulated as a foreign-funded financial institution; if the combined equity investment of all foreign financial institutions in a listed Chinese financial institution is equal to or exceeds 25%, the institution is regulated as a Chinese financial institution. Where the CBRC deems foreign financial institutions as related parties, they are counted as one institution when calculating such entities' equity interest in China's commercial banks.

#### *Lending, interest rates, and non-interest income*

122. Lending and deposit-taking by banks have been deregulated since 2004, but some constraints remain.<sup>104</sup> The PBC uses dynamic adjustment of diversified legal deposit reserves as its macro-prudential policy tool, and states that no administrative restrictions are imposed on loan growth. Another instrument used by the PBC to influence credit direction is "window guidance". The PBC has held regular meetings with commercial banks to outline its concerns about credit conditions across sectors. The authorities noted that "window guidance" is different from administrative means.<sup>105</sup>

---

<sup>103</sup> "Chinese financial institutions" referred to in the Rules comprise the Chinese commercial banks, urban and rural credit cooperatives, trust and investment companies, financial leasing companies, finance companies affiliated to enterprises, and other Chinese financial institutions chartered by the CBRC that are legally incorporated within China's territory.

<sup>104</sup> The Law on Commercial Banks requires commercial banks to take into consideration "the needs of national economic and social development", and follow the "guidance of the industrial policies of the State". Accordingly, in addition to the sector-specific lending provided by policy banks, the PBC and other administrative authorities encourage commercial banks to adapt their lending to specific borrowers in light of relevant government policies.

<sup>105</sup> Some researchers argue that "window guidance" to commercial banks, though effective in controlling credit growth in some periods, weakens competition and undermines the market determination of interest rates (OECD, 2010b).

123. Interest rates are subject to benchmarks set by the PBC<sup>106</sup>, and lower and upper limits around these benchmark rates; banking institutions must set their rates within the limits. Commercial banks may charge lending rates above the benchmark (but not lower than 90% of the benchmark), and offer deposit rates below – but not above – the benchmark.<sup>107</sup> Some researchers argue that the benchmark rates may weaken the incentive for commercial banks to price risk appropriately and stifle competition in the banking sector.<sup>108</sup> Market-based interest rates are allowed in the short-term interbank money markets and bond markets.

124. In response to reports that SMEs were facing credit difficulties, especially as SOCBs had tightened their credit channels for SMEs<sup>109</sup>, the PBC and CBRC issued circulars in 2010<sup>110</sup> to target financing operations for SMEs, calling for fast growth in credit provisions for SMEs, and guiding commercial banks, in line with national industrial- and environmental protection policies, to support small enterprises with solvency and good business opportunities.

125. The onshore market reference rates – Shanghai Inter-Bank Offered Rate (SHIBOR) – have been in operation since January 2007.<sup>111</sup> HSBC and Standard Chartered are the two foreign-invested banks among 16 quoting banks of SHIBOR. It is reported that SHIBOR is distorted by high-frequency volatility<sup>112</sup>, and a *de facto* ceiling and floor caused by the benchmark rates.<sup>113</sup> However, according to the authorities, the SHIBOR may on the whole reflect the capital supply and demand situation of the market, and has become an important benchmark of marketized product pricing. Recent research shows that the PBC benchmark lending rate does not have a significant effect on firm level capital formation, whereas the effective lending rate influenced by SHIBOR has a significant impact.<sup>114</sup>

126. A maximum interest rate has been set for certain foreign-currency-denominated deposits of less than US\$3 million with a maturity of one year or less.<sup>115</sup> The foreign currencies involved

---

<sup>106</sup> Banking institutions must set their rates within the limits. Commercial banks may charge lending rates above the benchmark (but not lower than 90% of the benchmark), and offer deposit rates below – but not above – the benchmark. Ceiling rates for loans are still applied in rural credit cooperatives.

<sup>107</sup> Mortgage loans have been subject to a different policy. See WTO (2008).

<sup>108</sup> OECD (2010b), p. 55.

<sup>109</sup> It is reported that personnel policies in the banking sector make loan officers responsible for loans over their lifetime, without regard to risk-adjusted returns on their lending portfolios. This may lead to banks preferring not to take risks and to allocate credit to their smaller clients (OECD, 2010b).

<sup>110</sup> The PBC, jointly with CBRC, CSRC, and CIRC, issued Certain Opinions on Further Improving Operations of Financing for Small-and-Medium Enterprises (PBC Circular 2010/193) on 21 June 2010; the CBRC issued a Circular on Supporting Commercial Banks to Further Improve Services to Small-and-Medium Enterprises (CBRC Circular 2011/59) on 25 May 2011.

<sup>111</sup> SHIBOR is a simple, no-guarantee, wholesale interest rate calculated by arithmetically averaging all the interbank RMB lending rates offered by the price quotation group of banks with a high credit rating. The price quotation group consists of 16 commercial banks. These quoting banks are primary dealers of open market operations or market makers in the foreign exchange market, with sound information disclosure and active RMB transactions in China's money market (SHIBOR online information. Viewed at: [www.shibor.org](http://www.shibor.org)).

<sup>112</sup> Porter and Xu (2009).

<sup>113</sup> OECD (2010b), p. 51.

<sup>114</sup> Conway, Chalaux, and Herd (2010).

<sup>115</sup> There are no restrictions on interest rates for foreign-currency-denominated loans, foreign-currency-denominated deposits over US\$3 million, or foreign-currency-denominated deposits of less than US\$3 million with a maturity of more than one year.

include: U.S. dollars, yen, euros, and Hong Kong dollars. Regarding non-interest income, certain services are subject to regulated prices.<sup>116</sup>

(b) Securities

*Recent developments*

127. The equity market and the bond market are the main components of China's securities market.<sup>117</sup> Institutional investors in China's securities markets include securities firms, futures firms, insurance companies<sup>118</sup>, and funds (i.e. mutual funds, social security funds, and private equities). In addition to shareholdings in joint ventures, and fund management companies, foreign presence in the Chinese markets may be in the form of investment banking, and qualified foreign institutional investors (QFIIs).<sup>119</sup>

128. China liberalized certain aspects of market access in securities business during the period under review, by allowing subsidiaries of foreign banks to underwrite financial bonds in the inter-bank market. Qualified institutional investors registered in Hong Kong, China are also allowed to trade equities in the A-share market with offshore RMB.

129. The pilot programme for margin trading was made permanent on 26 October 2011. Securities companies conducting margin trading must apply for approval from CSRC.

130. According to the authorities, the reform programme for conversion of SOE non-tradeable shares was completed in May 2011. The original non-tradeable shares will be traded on stock exchanges after a lock-up period following the completion of non-tradeable share conversion. The lock-up period is between one and three years. It is not clear to the Secretariat whether there is a defined number for minimum state-ownership of SOEs after the reform. The authorities note that the State should guarantee "controlling power, influence, and driving force of the state capital" in SOEs that operate in important industries or key areas vital for people's livelihood and national economy.

131. Policies and rules for QFIIs remain largely unchanged since the last TPR of China. Foreign institutions must apply to the CSRC to become QFIIs, and apply to the State Administration of Foreign Exchanges (SAFE) for investment quotas. Investments by QFIIs are allowed to be in equities, bonds, warrants, mutual funds, and stock index futures.<sup>120</sup> Foreign banks, securities companies, mutual funds, and insurance companies may apply to become QFIIs. The minimum

---

<sup>116</sup> These include: basic RMB settlement services (e.g. bank drafts, bank acceptances, promissory notes, cheques, entrusted collection); and other commercial bank services determined by the CBRC and the State Development and Reform Commission, based on the competitive situation in the market. Fees for other products and services are to be determined by banks based on market conditions. Regulated prices will be based on costs and allow for "slight profits".

<sup>117</sup> The proportion of bond financing has been larger than that of equity financing since 2005; bond financing in 2010 accounted for 76.9% of total direct financing.

<sup>118</sup> Insurance companies may have direct equities holdings of not more than 10% of their total assets. Together with their holdings via asset management subsidiaries, insurance companies are allowed to hold no more than 25% of their total assets in stocks. Their ceiling corporate bonds holdings is 30%.

<sup>119</sup> Qualified foreign institutional investors that invest in equities in China using offshore RMB are called Renminbi Qualified Foreign Institutional Investors (RQFIIs).

<sup>120</sup> On 4 May 2011, the CSRC issued a Guideline for Qualified Foreign Institutional Investors' Participation in Stock Index Futures Trading. According to this guideline, no QFII may hold more than its investment quota value of stock index futures contracts at the end of any trading day. The transaction value of stock index futures within any trading day may not exceed the investment quota value for any QFIIs.

capital requirement for mutual funds and insurance companies has dropped from US\$10 billion to US\$5 billion since August 2006, whilst the minimum capital requirement for banks and securities companies remained unchanged. The investment quota for each QFII increased from US\$800 million to US\$1 billion in September 2009, and the global quota for QFIIs increased to US\$30 billion. The lock-up period of long-term capital was shortened to 3 months from 12 months. There were 124 QFIIs in December 2011, 70% of which were mutual funds and insurance companies.

132. Under a pilot programme of Renminbi Qualified Foreign Institutional Investors (RQFIIs), subsidiaries of domestic fund management companies or securities companies that are registered in Hong Kong, China may invest in A-share equities with RMB raised in Hong Kong, China since 16 December 2012.<sup>121</sup> The Hong Kong-based institutions must also apply to the CSRC to be RQFIIs, and apply to the State Administration of Foreign Exchanges (SAFE) for investment quotas. The investment quota for RQFIIs is administered differently from the quota for QFIIs; the accumulative net (inbound) RMB capital of each RQFII may not be larger than the approved quota; the approved quota for individual RQFIIs may be reduced if the quota is not "effectively" utilized within one year of approval.<sup>122</sup> It was reported that 21 institutions share the current total quota, ¥20 billion, for RQFIIs. Detailed information on the expected business scope of RQFIIs was not available.

133. Policies for qualified domestic institutional investors (QDIIs)<sup>123</sup> remain largely unchanged since last Review of China.

134. On 21 April 2010, China began to allow Chinese and joint-venture securities companies and securities investment funds to participate in stock index futures trading. Since 4 May 2011, qualified foreign institutional investors (QFIIs) have been allowed to participate in such trading.

#### *Equity market*

135. The ChiNext board, established in the Shenzhen Stock Exchange in October 2009, is a new "growth enterprises board" aiming to "support" innovative firms and other growing enterprises. It listed 281 companies at end 2011, raising about ¥195.913 billion. In accordance with relevant CSRC rules, prior to starting up an account and investing in the ChiNext, investors must be familiar with the rules of the "growth enterprise board", be well aware of the market risks, and have the corresponding risk tolerance.

136. As agreed in the Sino-US Strategic Economic Dialogue in December 2007, and the Sino-British Economic & Finance Dialogue in May 2009, eligible foreign enterprises (registered outside China) are to be allowed to be listed on Shanghai Stock Exchange at the "appropriate" time.<sup>124</sup>

---

<sup>121</sup> CSRC Decree 2011/76.

<sup>122</sup> SAFE Circular 2011/50, entered into force on 20 December 2011.

<sup>123</sup> The programme of QDIIs began in April 2006, and gradually allowed approved Chinese institutional investors to invest in foreign securities. Qualified commercial banks, and fund management companies were first allowed in 2006; trust companies and insurance companies were allowed make overseas investments in June 2007, and securities companies in September 2009.

<sup>124</sup> This is also found in the State Council's Certain Opinions on Promoting Shanghai as an International Financial Centre and International Transport Hub by Acceleration its Development of Modern Services Sector and Advance Manufacturing Sector (State Council Circular 2009/19).

The authorities noted that preparation for the "International Board" was under way, though there is no strict timetable for its introduction.<sup>125</sup>

#### *Bond market*

137. While domestic (non-FIE) banks were already allowed to issue financial bonds in RMB, subsidiaries of foreign banks in China have been allowed to issue financial bonds in RMB in the Mainland since May 2009 and in Hong Kong SAR since July 2009. Between 2010 and 2011, two foreign invested banks were allowed to issue bonds in the Mainland's inter-bank market<sup>126</sup>, and two locally corporatized foreign-invested banks were allowed to issue RMB-denominated bonds in Hong Kong SAR.<sup>127</sup> In addition, subsidiaries of foreign banks are allowed to underwrite financial bonds issued in the inter-bank market and corporate bonds (since 2004). The authorities noted that as long as certain conditions are satisfied<sup>128</sup>, there is no special licence requirement for locally corporatized foreign-invested financial institutions to underwrite bonds. Direct branches of foreign banks are not allowed to issue or underwrite financial bonds. Certain commercial banks have been allowed to set up counters at their branches, where individual investors are allowed to buy and sell bonds; this "bank counter market" is still in its infancy.

138. Treasury bills, local government bonds, corporate bonds and warrants are traded in the stock exchanges (Shanghai and Shenzhen). At the end of 2011, 640 bonds with a total face value of ¥842.8 billion were in the secondary market (i.e. stock exchanges), an increase of about 34.25% compared with the end of 2010. Individual investors as well as institutional investors, including QFIIs, are allowed to trade bonds in the secondary market. In addition, 16 commercial banks are now allowed to participate, on a pilot basis, in bond trading in the stock exchanges. In September 2010, CSRC, jointly with the PBC and CBRC, issued a Circular on Certain Issues about the Pilot Programme of Listed Commercial Banks' Participation in Bond Trading on the Exchange.<sup>129</sup>

139. Since 16 August 2010, RMB clearing banks outside China, including in Hong Kong, China and Macao, China, have been allowed (within the approved quota) to use RMB acquired from their clearing operations to invest in the interbank bond market. As of end 2011, the interbank bond market managed ¥21.20 trillion, up 7.44% from 2010; cumulative transaction settlements amounted to ¥180.60 trillion, with year-on-year growth of 10.93%.

#### *Futures market*

140. Stock index futures started trading on 16 April 2010. Securities companies, securities investment funds, trust companies<sup>130</sup>, and QFIIs are allowed to trade stock index futures. The CSRC issued a series of guidelines for trading stock index futures.<sup>131</sup>

---

<sup>125</sup> Online information. Viewed at: <http://www.ccstock.cn/stock/gupiaoyaowen/2011-05-18/A458709.html>.

<sup>126</sup> These two banks were the Bank of Tokyo-Mitsubishi UFJ, and the Bank of East Asia.

<sup>127</sup> These two banks were HSBC, and the Bank of East Asia.

<sup>128</sup> Conditions were explained in the Administrative Measures for the Issuance of Financial Bonds in the National Inter-bank Bond Market (PBC Decree 2005/1).

<sup>129</sup> CSRC Circular 2010/91.

<sup>130</sup> CBRC Circular on Guideline for Trust Companies' Participation in Stock Index Futures Trading (CBRC Circular 2011/70).

<sup>131</sup> On 21 April 2010, the CSRC issued the Guideline for Securities Companies' Participation in Stock Index Futures Trading, and the Guideline for Securities Investment Funds' Participation in Stock Index Futures



*Regulatory and legislative framework*

141. The China Securities Regulatory Commission (CSRC) is the regulatory body for the securities markets in China. The main legislation is the Securities Law.<sup>132</sup> Under the Law and administrative rules, including the Measures on the Administration of Stock Exchanges, stock exchanges are self-regulatory legal entities.<sup>133</sup>

142. The CSRC implements the regulatory classification of securities companies and futures companies.<sup>134</sup> Classification is determined on the basis of, *inter alia*, risk-management capabilities, competitiveness of the company, and continuous record of law-abiding operations. There are five categories, i.e. A, B, C, D, and E; according to the regulations, companies in category D may have greater risks than they are able to bear.

143. Classifications are conducted annually by the CSRC. The results of the exercise may be taken into account as prudential conditions when companies apply for new business, new branches. These results are also used as references for companies' levies paid to the China Securities Investors Protection Fund and the China Futures Investors Protection Fund.

144. In the Regulations on the Investment Range and other Related Issues of Securities Companies' Operation on Their Capitals, which entered in force on 1 June 2011, the CSRC defines the range of business that securities companies are allowed to operate with their own capital. Securities companies may establish subsidiaries to specialize in financial products and other investments beyond the range of securities operation with their own capital as defined in the regulation, however, securities companies may not provide finance or guarantees to these subsidiaries.

145. Securities investment consultants must acquire the qualification of securities investment consultant, and be registered in the Securities Association of China. Securities investment consultants may not simultaneously be registered as securities analysts.<sup>135</sup> Futures investment consultations are being undertaken on a pilot basis in futures companies after approval by the CSRC. In the Interim Measures for Futures Investment Consultancy Services by Futures Companies, which entered into effect on 1 May 2011, the authorities emphasized the prevention of conflict of interests (COIs), and required the chief risk-officers of futures companies to report, to the authorities in the quarterly and annual reports, particularly on COI prevention measures. Individual persons are prohibited from providing either securities investment advisory services or futures investment consultation services.

146. The regulations on foreign capital entering Chinese securities markets remained largely unchanged during the review period. In principle, foreign suppliers may enter China's securities markets through the establishment of a new joint-venture with a Chinese partner or by taking a stake

---

Trading. On 4 May 2011, the CSRC issued the Guideline for Qualified Foreign Institutional Investors' Participation in Stock Index Futures Trading.

<sup>132</sup> Other major laws and regulations include the Company Law, the Securities Investment Fund Law, the Regulations on Administration of Futures Trade, and various regulations dealing with securities offering and listing; securities and futures trading; corporate governance, mergers and acquisitions of listed companies; market intermediaries; and securities investment funds.

<sup>133</sup> In addition, the Securities Depository and Clearing Company provides a centralized register, as well as custody and clearing services for, and exercises self-regulation over, securities trading.

<sup>134</sup> The CSRC issued revised Regulations on Administration and Supervision of Securities Company Classification on 14 May 2010, and Regulations on Administration and Supervision of Futures Company Classification on 12 April 2011.

<sup>135</sup> Article 7 of the Interim Rules on the Business of Securities Investment Advising, entered into force on 1 January 2011.

in an existing listed securities firm.<sup>136</sup> Foreign equity participation (accumulated total foreign participation) in listed Chinese securities firms is limited to 25%; and a single foreign investor must not hold more than 20%. Companies must have been in continuous operation in securities for five years in order to obtain approval for foreign equity participation. Foreign equity in joint-venture securities firms is limited to 33%.

147. Since 2008, there have been no changes to the Measures for the Administration of Securities Investment Fund Management Companies, which regulate the establishment of domestically owned and Sino-foreign joint-venture asset management companies.<sup>137</sup> The aggregate equity limit of foreign investment (direct and indirect holdings) for joint-venture fund management companies is 49%.

148. Since 2005, commercial banks have been allowed to establish fund management companies under a pilot programme. Currently, eight commercial banks have fund management companies as subsidiaries. The authorities state that the pilot programme is completed and under evaluation to determine whether its scope will be enlarged.

149. Revised Administration Measures on Vital Asset Restructuring of Listed Companies, entered into force on 1 September 2011. The revised measures cover three respects with regard to M&A and restructuring, in particular among SOEs, namely, backdoor listing, the system of buying assets through issuance of shares, and supporting finance.

(c) Insurance

*Market overview*

150. State-owned insurers dominate China's insurance market. As of 31 May 2011, there were 125 insurance companies in China's insurance market, including 51 life insurance companies, 57 non-life insurance companies, and 7 reinsurance companies. Of the 125 insurance companies, 74 were domestic companies and 51 were foreign companies. Since 2009, China Insurance Regulatory Commission (CIRC) has approved 15 new insurance companies, 10 domestic and 5 foreign-owned. At the end of 2010, the three largest life insurance companies held a market share of 55.6% and the three largest non-life insurance companies held a share of 66.5%.

151. The Interim Administration Measures for Usage of Insurance Funds, which entered into force on 31 August 2010, allows insurance companies to place their insurance funds in bank deposits, securities (i.e. bonds, stocks, and fund equities) trading, real estate investments, and overseas investments. Insurance funds must be entrusted to/hosted in and supervised by a professional third

---

<sup>136</sup> The business scope of these joint ventures include: underwriting stocks (including A, B, and H-shares) and bonds (including government and corporate bonds); brokerage business in only B and H-shares; and brokerage and proprietary trading of bonds (including government and corporate bonds). Qualified joint ventures are allowed to gradually expand to other business, including brokerage of RMB stocks, assets management, and operations with their own capital.

<sup>137</sup> Under the measures, minimum registered capital of ¥100 million is required to establish a fund management company. Principal shareholders, i.e. those holding no less than 25% of the company's total registered capital, must have minimum registered capital of ¥300 million; other shareholders must have registered capital and net assets of no less than ¥100 million. A foreign shareholder in these companies must: (a) be a financial institution established according to the law of its country of origin; (b) be located in a country that has "perfect securities laws and regulatory systems", and the securities regulatory institution must have signed an MOU on securities regulatory cooperation with the CSRC, and have kept an effective regulatory cooperation relationship; and (c) must have minimum paid-up capital in convertible currency equal to ¥300 million, even if it is not a major shareholder.

party such as a commercial bank. Insurance companies may entrust the funds to insurance asset management companies or operate the investment activities on their own capacities.

152. The Interim Rules on Administration of Insurance Asset Management Companies (revised in April 2011)<sup>138</sup> allows foreign and domestic insurance companies to establish insurance asset management companies. To be a stakeholder of an insurance asset management company, the insurance company must have been operation insurance business for more than five years, and have total assets of not less than ¥10 billion (not less than ¥15 billion for an insurance group company) with a solvency ratio not less than 150%. The registered capital of an insurance asset management company should be minimum paid-in capital of ¥100 million or equivalent values in other convertible currencies.

153. Banks and other financial institutions that acquire concurrent business agency licences are allowed to serve as insurance sales agencies.<sup>139</sup>

#### *Regulatory and legislative framework*

154. The China Insurance Regulatory Commission (CIRC) is the regulatory authority for the insurance market in China. It is responsible for granting permission to establish new insurance companies, new branches of insurance company, and to supply new products and engage in new activities. The CIRC is also responsible for prudential surveillances over the whole market.

155. The main legislative framework for the insurance sector includes the Insurance Law (revised in October 2009)<sup>140</sup>, the Regulations on Administration of Foreign-funded Insurance Companies (State Council Decree 336, entered into force 1 February 2002), the Detailed Rules for Implementation of Regulations on Administration of Foreign-funded Insurance Companies (CIRC Decree 2004/4, entered into force 15 June 2004)<sup>141</sup>; and the Rules on Administration of Insurance Companies (CIRC Decree 2009/1, entered into force 1 October 2009). The latest revised law and regulations treat foreign-funded insurance companies the same as domestic insurance companies.

156. The Insurance Protection Fund of China was set up since 2008.<sup>142</sup> All insurance companies operating in China, i.e. domestic and foreign-funded, must pay levies to the Insurance Protection Fund.

157. The Provisional Measures for the Administration of Insurance Group Companies, promulgated on 12 March 2010, defines the range of business of insurance group companies, which is mainly in equity investment and management. It sets investment caps for insurance group companies and their subsidiaries, non-insurance financial enterprises, insurance-related non-financial enterprises, and overseas investments. The measures also aim to strengthen internal control of insurance groups'

---

<sup>138</sup> CIRC Circular 2011/19.

<sup>139</sup> CBRC Circular on Further Strengthening Sales Compliance and Risk Management of Insurance Agent Services Provided by Commercial Banks (CBRC Circular 2010/90). CIRC's proposed Administration Rules on Insurance Companies' Appointment of Financial Institutions as Insurance Agents (in consultation from 7 April 2011).

<sup>140</sup> Article 185 of the Insurance Law states that the Law also applies to foreign-funded insurance companies.

<sup>141</sup> Foreign-funded insurance companies include wholly foreign-owned insurance companies, Sino-foreign joint ventures, and branches of foreign insurance companies.

<sup>142</sup> The Administration Measures on Insurance Protection Fund, jointly issued by CIRC, MOF, and PBC, entered into effect on 11 September 2008.

affiliates. Capital management and information disclosure of insurance groups are subject to the measures.

158. Insurance companies and their branches must operate business activities within the territorial boundary of the province/municipality/autonomous region in which they are registered.<sup>143</sup> Insurance companies must establish at least one branch in the territory at the provincial level where they intend to operate business. However, re-insurance companies, including branches of foreign re-insurance companies, are allowed to operate nationwide.

159. Regulations and requirements for foreign investors to establish insurance companies, including wholly foreign-funded and joint ventures, remain the same. In the Measures for Administration of Equities of Insurance Companies (CIRC Decree 2010/6, entered into force on 10 June 2010), states that the threshold to determine whether an insurance company is classified as a foreign-funded insurance company is 25% of equity holding by foreign investors. No single investor (including its affiliated parties) may possess more than 20% of the insurance company's registered capital. Investors in insurance companies must be domestic legal persons, or foreign financial institutions.<sup>144</sup> Key shareholders that possess more than 15% of equity, or less than 15% but gain control (directly or indirectly) over an insurance company must: have continuously made profits in the most recent three consecutive fiscal years; have net assets of not less than ¥200 million; and hold a leading position in the industry. Any change or alteration of a single shareholder that possesses more than 5% equities requires CIRC approval. If a single investor acquires more than 5% of the stocks of a listed insurance company from the exchange, the company must report to CIRC for approval within five days of the acquisition.

160. Foreign financial institutions that invest in equities of insurance companies in China must have: continuously made profits in the most recent three consecutive fiscal years; have gross assets at the end of most recent year of not less than US\$2 billion; have a long-term credit rating by international rating agencies of level A or above for the most recent three consecutive years; have had no major regulatory violation in the most recent three consecutive years; meet the prudential supervisory standards in the country of origin; and meet other requirements of Chinese laws, regulations, and CIRC rules.

161. A foreign-funded insurance company is not allowed to engage in the business of personal insurance and property insurance at the same time.<sup>145</sup> Foreign holdings of equities in a Sino-foreign joint-venture insurance company engaged in life insurance business may not exceed 50%.<sup>146</sup> Foreign-funded insurance companies that engage in life insurance business must not be dissolved.<sup>147</sup>

162. The Measures for Administration of Capital Deposit by Insurance Companies entered into force on 7 July 2011. Under the measures, 20% of the registered capital of an insurance company

---

<sup>143</sup> Exemptions are given to insurance companies engaged in co-insurance business, large-scale commercial insurance or master policy, and cross-provincial-border business underwritten through internet or telephone marketing activities. Article 42 of the Rules on Administration of Insurance Companies.

<sup>144</sup> Except for investors that purchase stocks of listed insurance companies on the stock exchanges. See Article 12 of the Measures for Administration of Equities of Insurance Companies.

<sup>145</sup> Article 16 of the Regulations on Administration of Foreign-funded Insurance Company.

<sup>146</sup> Article 3 of the Detailed Rules for Implementation of Regulations on Administration of Foreign-funded Insurance Company. Wholly foreign-owned insurance companies and branches of foreign insurance companies are not allowed to engage in life insurance in China.

<sup>147</sup> Except splits or mergers. Article 26 of the Regulations on Administration of Foreign-funded Insurance Company.

must be saved in capital deposit accounts within 30 days of permissions granted to operate or to increase registered capital.<sup>148</sup> The capital deposit is to be used only for debt settlement if the insurance company is liquidated. The Regulations on Administration of Reprehensive Office of Foreign Insurance Organizations in China is currently under public consultation.

(d) Financial information

163. Financial information services offered by foreign providers are regulated by the Administration of Provision of Financial Information Services in China by Foreign Institutions, which entered into force in June 2009. Financial information services are defined as services provided to users engaging in financial analysis, financial transactions, financial decision-making or other financial activities in respect of the provision of information and/or financial statistics that may affect financial markets.

164. The State Council's Information Office is the regulatory body for financial information services in China. Service providers must seek approval from the Information Office prior to operating in China.<sup>149</sup> Approved service providers must file with the regulator each service contract with domestic clients within 30 days of signing, termination, or alteration of the contract.<sup>150</sup> Service providers approved by the Information Office also require permission from MOFCOM, and must register with the SAIC within 30 days of this since permission being granted.

(iii) Telecommunications

(a) Market structure

165. According to ITU data, China had 64.4 mobile cellular subscriptions per 100 inhabitants in 2010, i.e. about 859 million subscriptions, up from 393 million subscriptions in 2005. This more than doubling in five years corresponds to a compound annual growth rate of 16.7%. Correlatively, the number of fixed lines decreased from 350 million to 294 million between 2005 and 2010, i.e. from 26.80 lines per 100 inhabitants to 21.95. Overall, penetration of telephones in China is still on the rise, from 79.9% in 2009 to 84.6% in 2010.

166. After the allocation of the third 3G licence to China Telecom in January 2009, there are now three main operators both for the fixed-line market and the mobile telephone market. These operators also provide data services, IP telephony services, and satellite services. CITIC networks provides only satellite services (Tables IV.11, IV.12 and IV.13).

167. While majority state owned, the three companies are listed on the stock market and hence open to private investors, including foreign, through the acquisition of shares. Foreign investment is of 25.80% in China Mobile, 28.99% in China Unicom, and 17.15% in China Telecom.

With regard to telephone tariffs, in 2009, average charges for traditional fixed-line and mobile domestic direct dials were ¥0.27/minute and ¥0.33/minute (with an access charge of ¥0.1/minute). Average charges for traditional fixed-line and mobile international direct dials were ¥3.40/minute and

<sup>148</sup> Insurance capital deposit is required by Article 97 of the Insurance Law.

<sup>149</sup> The decision whether to grant business approval is made within 20 working days of receipt of application. Each approval is valid for two years.

<sup>150</sup> Information to be filed includes information products, methods of delivery, identities of clients, and validity period of the contract. Article 12 of the Provisions states that all filed information is protected, and will be used for regulatory purpose only.

¥3.01/minute. In 2010, the averages were ¥0.26/minute and ¥0.23/minute for traditional fixed-line and mobile domestic direct dials; and ¥2.85/minute and ¥2.14/minute for traditional fixed-line and mobile international direct dials.

**Table IV.11**  
**Basic telecommunications service providers, 2011**

Services	Providers
Fixed-line services	China Telecom, China Mobile, China Unicom
Mobile telephone services	China Telecom, China Mobile, China Unicom
Data services	China Telecom, China Mobile, China Unicom
IP telephony services	China Telecom, China Mobile, China Unicom
Satellite services	China Telecom, China Mobile, China Unicom, CITIC Networks

*Source:* Information provided by the Chinese authorities.

**Table IV.12**  
**Market shares for fixed lines, 2011**

Operator	Market share of users (%)	Market share of revenue (%)
China Telecom	61.4	62.5
China Unicom	32.6	32.9
China Mobile	6	4.6

*Source:* Information provided by the Chinese authorities.

**Table IV.13**  
**Market shares for mobile telephones, 2011**

Operators	Market share of users (%)	Market share of revenue (%)
China Telecom	12.4	9.7
China Unicom	20.3	14.3
China Mobile	67.3	76

*Source:* Information provided by the Chinese authorities.

168. With regard to tariff structure, in recent years, the Government has maintained the principles of breaking the monopoly and introducing competition in telecommunications. The Ministry of Industry and Information Technology (MIIT) has been promoting reforms on telecom tariff management, improving gradually the formation mechanism of market-oriented telecommunications tariffs. Against this background, telecoms tariffs have declined significantly, overall. With regard to the tariff structure for mobile telephony, MIIT issued a "Notice on Simplification of Charge of Long-distance Call via Mobile phone" in 2009, which simplified the tariff structure for local long-distance calls via mobile phones and combined local and long-distance call charges. In fixed-line telephony, maximum standard charges for dialling services among business areas have been gradually declining all over China, under MIIT and NDRC guidance. As of end-June 2011, the maximum interval fee standard was lowered to ¥0.2/min in 29 provinces, and interval fees were cancelled in Beijing, Shanghai, Tianjin, and Heilongjiang.

169. In order to encourage market competition and promote the lowering of communication costs, the upper-limits method (price caps) has been used instead of pricing by the Government, since 18 November 2009, to manage basic monthly fees for fixed local telephone services and fees for local calls with the business area, as well as basic monthly fees for local network wireless access, fees for local Netcom calls, and fees for long-term lease of leased circuit.

170. As of end 2011, the number of Chinese Internet users reached 513 million (an average of 38.3 per 100 persons), fixed broadband access subscribers reached 156 million (an average of 11.69 per 100).

(b) Regulatory regime

171. MIIT is the main regulator of the telecom industry. It deals with, *inter alia*, licencing, interconnection rates, technical standard settings, radio frequency allocations, spectrum monitoring and enforcement, numbering, type approval, services quality monitoring, universal service, quality of service standards, enforcement of the quality of service obligations, and information technology. MIIT shares its regulatory competence with the National Development and Reform Commission for price regulation; with the State Administration of Radio, Film and Television for broadcasting; and with the State Council Information Office, the Ministry of Public Security, the State Administration for Radio Film and Television, and the General Administration of Press and Publication for internet content.<sup>151</sup>

172. China's GATS and FTA commitments on telecommunications comprise four main blocks, except in the Closer Economic Partnership agreements with the Hong Kong SAR and the Macao SAR, which define a *sui generis* regime, and in the FTA with ASEAN, which does not include any telecommunication commitment.

173. The first block covers all value-added telecommunications services "including" items (h) to (n) of the MTN.GNS/W/120 nomenclature, i.e. electronic mail (h); voicemail (i); electronic data interchange (k); enhanced/value-added facsimile services (including store and forward, store and retrieve) (l); code and protocol conversion (m); and online information and/or data processing (including transaction processing). For those services, entry for mode 1 refers to mode 3 ("see mode 3"), there are no restrictions for mode 2, and commercial presence is allowed in the form of joint venture, with foreign investment limited to 50%. The additional commitments column indicates that the reference paper obligations apply to those services. The commitments contained in the FTA with Pakistan, New Zealand, Singapore, and Chile (by cross-reference for the latter) are identical to GATS commitments; however the reference paper obligations are not included for value-added telecommunication services in the agreements with New Zealand, Singapore, and Peru.

174. The second block of commitments comprises one basic telecommunication service, paging, for which the conditions are identical to that of value-added services (mode 1: "see mode 3", mode 2: none; and mode 3: only in the form of joint venture, with foreign ownership limited to 50%; obligations of the reference paper) under GATS as well as under the FTAs with Pakistan, New Zealand, Singapore, and Chile (by cross-reference for the latter).

175. The third block, mobile voice and data services, covers both analogue/digital/cellular services and personal communication services. Under GATS commitments, mode 1 refers to mode 3, no restrictions are inscribed for mode 2, and commercial presence is allowed in the form of joint venture, with foreign ownership limited to 49%; and the obligations of the reference paper are inscribed. The commitments are identical in the FTAs with Pakistan, New Zealand, Singapore, and Chile (by cross-reference for the latter).

176. The fourth block covers fixed domestic and international basic telecommunications services i.e. voice services, packet-switched data transmission services, facsimile services, domestic

---

<sup>151</sup> International Telecommunication Union, "ICT EYE" data base. Viewed at: <http://www.itu.int/ITU-D/icteye/>.

private-leased circuit, and international closed user group voice and data services. In the latter case the commitment indicates that the use of private leased circuit services is permitted. The regime is the same as for mobile services (mode 1: see mode 3, mode 2: none, mode 3: joint venture, with foreign ownership limited to 49%, and subscription to the reference paper obligations) both under the GATS and under the FTAs with Pakistan, New Zealand, Singapore, and Chile (by cross-reference for the latter).

177. The Closer Economic Partnership agreements with the Hong Kong SAR and the Macao SAR contain extensive commitment formulated with *sui generis* classification and definitions that are drawn from the "Mainland telecommunication business classification" and not from the MTN.GNS/W/120 and the "Chairman's note" (S/GBT/W/2/Rev1) categories referred to in China's GATS commitments. Hong Kong/Macao SARs services suppliers are allowed "to set up joint venture enterprises to provide the following five types of value-added telecom services: (1) internet data centre services, (2) store and forward services, (3) call centre services, (4) internet access services, (5) content services", with shareholding limited to 50%. In addition, Hong Kong/Macao SARs services suppliers are allowed to set up joint ventures, with maximum participation of 50% to provide IP virtual private network services. Hong Kong SAR suppliers are allowed to distribute fixed/mobile telephone services cards in Guangdong province, which may only be used in Hong Kong/Macao (to the exclusion of mobile satellite phone services cards); this does not apply to Macao suppliers.

178. There have been no major changes to the institutional structure or the existing regime since 2009. A draft telecommunication law, whose first draft dates back July 2004, is still in preparation through a process of further investigation, verification, opinion soliciting, and modification, presided over by the Legislative Affairs Office of the State Council. There are no plans to lift or ease the provisions on minimum registered capital.

179. Department rules enacted or amended since 2009 by the Ministry of Industry and Information Technology include: Measures for the Administration of Seismic Performance Testing of Telecommunications Equipment (MIIT Order No. 3, 1 March 2009, effective 10 April 2009); Decision on Abolishing the 8 Rules like Provisions of the Ministry of Posts and Telecommunications on Compensation for Damages to Telecommunication Lines, etc. (MIIT Order No. 4, 1 March 2009, effective 10 April 2009); Administrative Measures for the Licensing of Telecommunication Business Operations (MIIT Order No. 5, 5 March 2009, effective 10 April 2009); and Measures for the Administration of Communication Network Security Protection (MIIT Order No. 11, 21 January 2010, effective 1 March 2010).

180. These are essentially technical regulations with no effect on market access for foreign investment. However, the Administrative Measures for the Licencing of Telecommunication Business Operations amend the existing rules by further detailing and specifying the material to be provided by an applicant for a licence, as well as the procedures for the approval of licences and the specific requirements for applicants' behaviour (compliance with laws and regulations, prohibition of deceptive and fraudulent practices to the detriment of consumers, prohibition of anti-competitive practices, etc.). The rules are applied on a non-discriminatory basis to national and foreign applicants, provided that the latter comply with conditions set up by the Provisions on the Administration of Foreign-funded Telecommunications Enterprises (Decree No. 534 of the State Council of the People's Republic of China).

181. MIIT Order No. 11 on Measures for the Administration of Communication Network Security Protection, issued in January 2010, imposes technical requirements on business operators to guarantee the security of the network against viruses and malicious attacks so as to maintain the integrity of the



network and the economic and social benefits attached to it. The standardized technical requirements include a security-risk-analysis report and regular reviews of the security measures by the Regulatory Agency. Order No. 11 applies to providers of both basic telecommunications and value-added services, including internet. This complements the new CCC (China Compulsory Certification) requirement for IT security products issued in 2009 by the Ministry of Public Security.

182. In the "restricted" category of the 2011 *Catalogue for the Guidance of Foreign Investment Industries* telecommunications companies are classified as: "value-added telecommunications services (the foreign capital must be less than 50%), basic telecommunications services (the foreign capital must be less than 49%)". The same catalogue places in the "prohibited" category: "News websites, internet audiovisual programme services, operating sites offering internet-surfing services, as well as culture-related businesses on the internet (music excluded)".

183. Article II Clause 9 of the document *Several Opinions of the State Council on Encouraging and Guiding the Healthy Development of Private Investment* stipulates that Chinese authorities should "encourage the private capital entering the basic telecommunications market by means of sharing, support the private development of the value-added telecom service and reinforce the supervision of monopolization telecom field and unfair competition behaviours, to promote a fair competition and the resource sharing".

184. According to existing rules, basic telecommunication has to be at least 50% state owned, but in application of that policy, six basic telecommunication subsectors have been opened to private investment up to 100% for Chinese nationals. These are: analogue trunking telecom service; radio paging service; domestic very small aperture terminal (VSAT) earth station communication service; the "second category" of data communication services (including fixed-network domestic data transmission service and wireless data transfer service); customer premises network (CPN) service; and web-hosting service. As a result, the six basic telecommunications services are now aligned with value-added services, which, except for domestic multi-party telecommunications, have long been opened fully to private investment. According to the Chinese authorities, only two of these services, radio paging services and the second category of data communication services, are covered by China's WTO commitments, via the paging services and "packet switched data transmission" entries, and therefore open to foreign investment.

185. Regarding interconnection, China has issued two new regulations to strengthen supervision and administration of telecom network operations and ensure steady and reliable operations of telecom networks. Firstly, Chapter III, Article 25 of the *Measures on Supervision and Administration of Telecommunications Network Operations* (No. 187, 2009 of the MIIT) stipulates that basic telecom services operators shall apply protective measures of network architecture on the interconnection between networks. Secondly, to reinforce the supervision and administration of interconnection quality between internet backbone networks, regulate the processing of interconnection, and guarantee smooth interconnection between internet backbone networks, the MIIT issued *Measures on Supervision and Administration of the Interconnection Quality between Internet Backbone Networks* (No. 48, 2011, 10 May 2011). Other rules on interconnection have not changed since the last TPR of China<sup>152</sup>, except that China's regulations now define the term leading telecommunications business operators as "operators that control vital telecommunications infrastructure, have a relatively large

---

<sup>152</sup> See WTO document WT/TPR/S/230/Rev.1, paragraph 94, pp. 89-90.

share of the telecommunications market and can materially influence the entry of other telecommunications business operators into the telecommunications business market".<sup>153</sup>

186. China has issued a large number of regulations regarding internet services (Table IV.14).

**Table IV.14**  
**Regulations on Internet Services**

Title	Issued by	Date issued	Date effective
Regulation on Telecommunications of the People's Republic of China	Decree No. 291 of the State Council of the People's Republic of China	25 September 2000	25 September 2000
Measures for Administration of Information Service via Internet	Decree No. 292 of the State Council of the People's Republic of China	25 September 2000	25 September 2000
Provisions on the Administration of Foreign-Funded Telecommunications Enterprises	Decree No. 534 of the State Council of the People's Republic of China	10 September 2008	10 September 2008
Administrative Measures for the Licensing of Telecommunication Business Operations	Order No. 5 of the Ministry of Industry and Information Technology of the People's Republic of China	5 March 2009	10 April 2009
Administration of Internet Electronic Messaging Services Provisions	Order No. 3 of the Former Ministry of Information Industry	6 November 2000	6 November 2000
Interim Provisions on the Administration of Internet Publication	Decree No. 17 of the General Administration of Press and Publication and former Ministry of Information Industry	27 June 2002	1 August 2002
Measures for the Administration of Internet Domain Names of China	Order No. 30 of the Former Ministry of Information Industry	5 November 2004	20 December 2004
Measures for the Archival Administration of Non-operational Internet Information Services	Order No. 33 of the Former Ministry of Information Industry	8 February 2005	of 20 March 2005
Measures for the Administration of IP Address Archiving	Order No. 34 of the Former Ministry of Information Industry	8 February 2005	20 March 2005
Measures on the Administration of Internet Information Services	Order No. 37 of the State Council Information Office and the Former Ministry of Information Industry	25 September 2005	25 September 2005
Measures for the Administration of Internet E-mail Services	Order No. 38 of the Former Ministry of Information Industry	25 September 2005	25 September 2005
Regulation on the Administration of Visual and Audio Program on Internet	Order No. 56 of the State Administration of Radio, Film and Television and the Former Ministry of Information Industry	20 December 2007	31 January 2008
Catalogue of Telecommunications Services	Order No. 73 of the Ministry of Information Industry	21 February 2003	1 April 2003

Source: Information provided by the Chinese authorities.

187. The *Catalogue of Telecommunication Services* places internet services providers (ISPs i.e. providers of access) and internet content providers (ICPs) into the category of value-added telecommunication services. Pursuant to Article 7 of the Regulations on Telecommunications (Order No. 291 of the State Council), internet access service providers must obtain a business licence from the telecom administration authority, classifying them either as internet data centre (category one of value-added telecommunication services) or as internet access service (category two of value-added telecommunication business).

<sup>153</sup> Article 17 of the Regulations on Telecommunications (Decree No. 291 of the State Council, 25 September 2000, effective the same date) and Article 5 of the Provisions on Administration of the Interconnection of Public Telecommunications Networks (Order No. 9 of the Former Ministry of Information Industry, 10 May 2001, effective the same date).

188. The catalogue further divides internet content providers into "operational ICP" (pursuant to Article 3 of the Measures for Administration of Information Service via Internet, a supplier of "services and activities such as providing paid information or web design to Internet users via the Internet") and "non-operational ICP" (a supplier of "services and activities of providing Internet users with free public and commonly shared information without charges via the Internet").

189. Internet providers are subject to several layers of regulation. If foreign funded they first have to comply with Provisions on the Administration of Foreign-funded Telecommunications Enterprises (Decree No. 534 of the State Council). The last revision of these provisions, in 2008, simplified the requirements and procedures of examination and approval, notably by suppressing the requirement of a feasibility study report, and lowered the minimum registered capital of telecommunications enterprises (for basic telecommunications services nationwide or beyond a single province, autonomous region or municipality directly under the central government from ¥2 billion to ¥1 billion, and within a province, autonomous region or municipality directly under the central government from ¥200 million to ¥100 million).

190. Internet access services and information services business (including Internet information services) belong to the second category of value-added telecom business in China's Classification of Telecommunications Business. Information services belongs to "online information and database retrieval business", which are covered by China's WTO commitments. Therefore, foreign-funded enterprises may apply for business in accordance with the requirements of, *inter alia*, the Provisions on Administration of Foreign-Funded Telecommunications Enterprises, the Measures for Administration of Telecommunications Business Licence, and the Measures for Administration of Internet Information Services.

191. Certain forms of internet activities (news websites, internet audiovisual programme services, operating sites offering "internet-surfing services", as well as "culture-related businesses" on the internet (music excluded)) are classified in the "prohibited" category by the 2011 *Catalogue on the Guidance of Foreign Investment Industries*.

192. Internet providers need to apply for a licence. Licensing of ISPs and operational ICPs is covered by the Administrative Measures for the Licensing of Telecommunication Business Operations and for non-operational ICPs by the Measures for the Archival Administration of Non-operational Internet Information Services (Order No. 33 of the Former Ministry of Information Industry). Regarding licensing procedures, the Regulations on Telecommunications, implements a system of permits for the operation of telecommunications business. Operation of value-added telecommunications services covering an area across two or more provinces, autonomous regions and/or municipalities directly under the central government requires examination and approval by the State Council's department in charge of the information industry and a "Cross-regional Value-added Telecommunications Service Operating Permit". Operation of value-added telecommunications services covering an area within one province, autonomous region or municipality directly under the central government requires examination and approval by the telecommunications administration authority of the province, autonomous region or municipality directly under the central government and a "Value-added Telecommunications Service Operating Permit".

193. Internet content providers are subject to the Measures for Administration of Information Service via Internet and to the Regulations on Telecommunications, and their implementing regulations, the Measures for the Archival Administration of Non-operational Internet Information Services, and the Administrative Measures for the Licensing of Telecommunication Business Operations for operational internet information providers only for the latter.

194. In addition, pursuant to relevant provisions of the Measures for Administration of Information Service via Internet, engagement in internet information services in relation to news, publication, education, medical care, drugs, medical instruments, etc. is subject to review and approval by the relevant competent authority, pursuant to laws, administrative regulations, and relevant provisions of the State, and to legal review and approval by the relevant competent authority before application is made for a business licence or record-filing formalities are undertaken.

195. The activities of internet content providers are regulated by different regulations issued by specialized authorities depending on the nature of the services provided.

196. For news information services, the Provisions on the Administration of Internet News Information Services (Order No. 37 of the State Council Information Office and the Ministry of Information Industry) define the conditions of establishment of internet news information service providers, the application materials to be submitted, the examination and approval procedures, the codes of conduct applicable, the government supervision and administration measures, and the related legal responsibilities. In addition, the Measures for Administration of Information Services via Internet regulate the information service activities offered to internet users, distinguishes commercial and non-commercial internet information services, and stipulate provisions on the related market-access criteria, the procedures of administrative licence, the rights and obligations of service providers and the legal liabilities of illegal acts.

197. The Measures for the Administration of Internet E-mail Services (Order No. 38 of the Ministry of Information Industry) apply to the provision of internet e-mail as well as access services to internet e-mail services and the transmission of internet e-mails. They require the provider of such services to hold a permit for the operation of value-added telecommunication services or to perform the procedures for archival filing of non-operational internet information services. In addition, these Measures stipulate the codes of conduct, the related prohibited acts, the report handling mechanism and the legal responsibilities of internet e-mail service providers and telecommunication service providers that offer access services to internet e-mail services.

198. The Management Provisions on Electronic Bulletin Services in Internet (Order No. 3 of the Ministry of Information Industry) regulate the publication by online subscribers of information on the internet in an interactive form, such as bulletin boards, whiteboards, discussion forums, chat rooms, and message boards. They stipulate that anyone engaged in the provision of internet information services that wishes to launch electronic messaging services must submit a dedicated application, and stipulate conditions and procedures of examination and approval as well as rules of behaviour to be observed by the providers of electronic messaging services. For internet electronic messaging services the dedicated application procedure was cancelled and changed into the licensing system of internet information services by the promulgation of Decision of the State Council on Issuing the Fifth Batch of Administrative Examination and Approval Items Which are Cancelled and Those Which are Decentralized to the Lower Level (Guo Fa [2010] No. 21) issued on 4 July 2010. Engagement in internet information services and intended electronic bulletin services is subject to review and approval by the special administrative authority (i.e. the National Internet Information Office) for electronic bulletin service contents.

199. The Interim Provisions on the Administration of Internet Publication (Order No. 17 of the General Administration of Press and Publication and the Ministry of Information Industry) define the notion of internet publication and stipulate the examination and approval conditions as well as materials to be submitted so as to engage in internet publication business, the rights and obligations of internet publishers, and the legal liabilities of related illegal acts.

200. The Administrative Provisions on Internet Audio-Visual Program Services (Order No. 56 of the State Administration of Radio, Film, and Television and the Ministry of Information Industry) define internet audio-visual programme services, the regulators of internet audio-visual programme services and their responsibilities, the application conditions and materials to be submitted to be engaged in internet audio-visual programme services, the subject and procedures of examination and approval, the service regulations, the rules on the protection of users' rights and interests, and the related legal responsibilities, etc.

201. The Ministry of Industry and Information (MII) promulgated on 29 December 2011 the Several Provisions on Regulating the Market Order of Internet Information Services, which entered into effect on 15 March 2012. These provisions deal with competition (prohibition of unfair practices among website operators, rules on the bundling/unbundling of software), and consumer protection (users' rights, consent required from consumers before downloading software, rules on pop-up window advertisement, protection of users' personal data, information security, and complaint process).

202. Foreign presence in the telecommunications services sector remains extremely marginal: up to April 2011, 25 licences for value-added telecommunication services had been granted to foreigners (60 applications were received and 42 completed the first stage of the licensing process: "Validation Opinions on Foreign Investment in Telecommunications Business") compared with 23,259 licences delivered to Chinese citizens or companies (90% of them privately owned). Foreign-funded enterprises are virtually all (23 of the 25) concentrated in the sub-market of cross-regional value-added telecommunications services where they represent 1.1% of the total of the 2,087 companies licenced, compared with 106 state-owned enterprises (85.08% of the total) and 1,958 private Chinese-owned companies (93.82% of the total).

203. For basic telecommunications services, no application for licence has been received by the Chinese authorities from foreign operators.

204. The planned universal services fund has not yet been established.

**(iv) Transport**

(a) Maritime transport services

*Market structure*

205. In 2010, around 90% in volume of China's international cargo was carried by sea. This represented a freight volume of 581 million tonnes or 4,599.9 billion tonne-kilometres, up from 517 million tonnes or 3,952.4 billion tonne-kilometres in 2009. Maritime exports and imports amounted respectively to 69% and 61.8% of the total value of exports and imports (US\$1,088.6 billion and US\$861.1 billion), up from 67.9% and 61.7% in 2009 representing US\$815.7 billion and US\$620.7 billion. The difference between volume and value can be explained by the intermodal share of air cargo transport, which carries low volume high value goods, and the differences between intermodal maritime export and import shares by the fact that China imports a lot of raw materials in bulk and exports a lot of medium to high-value manufactured goods in containers.

206. Domestic maritime trade (cabotage), a segment reserved to 100% Chinese-owned companies flying the Chinese flag, represented 1,323 million tonnes or 1,689.3 billion tonne-kilometres in 2010 compared with 1,104 million tonnes and 1,339.9 billion tonne-kilometres in 2009.

207. As of 1 January 2011, China had 2,044 vessels over 1,000 gross tonnes registered under its national flag, (representing 46,207,468 dead weight tons, DWT) of which 1,136 vessels were deployed internationally (21,280,000 DWT), compared with 2,024 vessels (41,026,075 DWT) and 1,069 vessels (18,100,000 DWT), respectively, as of 1 January 2010.

208. China is about to renew its Ad hoc tax-Free Registration Policy for the Chinese flag-of-convenience ship Program for the 12<sup>th</sup> Five-year Plan period (2011-2015), in a bid to attract Chinese flag-of-convenience ships to register in China. According to UNCTAD statistics, as of 1 January 2010, there were 1,609 vessels of this kind representing a tonnage of 63,326,314 DWT. The two fleets taken together make China the world's third maritime nation by tonnage, after Greece and Japan, a rank it already had in 2010.

209. Throughput in all of China's top ten ports grew between 2009 and 2010 (Table IV.15).

**Table IV.15**  
China's top ten above-scale goods seaports in terms of throughput, 2010  
(10,000 tonnes and %)

Rank	Port	2009	2010	Year on year growth (%)	Share of throughput (%)
1.	Ningbo-Zhoushan	57,684	63,300	+9.7	7.8
	Ningbo	38,385	41,217	+7.4	5.1
	Zhoushan	19,300	22,084	+14.4	2.7
2.	Shanghai	49,467	56,320	+13.9	7.0
3.	Tianjin	38,111	41,325	+8.4	5.1
4.	Guangzhou	36,395	41,095	+12.9	5.1
5.	Qingdao	31,546	35,012	+11.0	4.3
6.	Dalian	27,203	31,399	+15.4	3.9
7.	Qinhuangdao	24,942	26,297	+5.4	3.2
8.	Tangshan	17,559	24,609	+40.2	3.0
9.	Rizhao	18,131	22,597	+24.6	2.8
10.	Yingkou	17,603	22,579	+28.3	2.8
	Total	697,159	810,180	+16.2	

Source: Information provided by the Chinese authorities.

210. The ranking provided by the Chinese authorities covers all type of merchandise handled, including bulk shipment of oil, grains, and coal. The ranking for container shipment is slightly different (Table IV.16). In 2010, Shanghai port became the world's leading container port by throughput, before Singapore. The ports of Shenzhen (No. 4), Ningbo (No. 6), Guangzhou (No. 7), Qingdao (No. 10), Tianjin (No. 14), Xiamen (No. 19), Lianyungang (No. 29), and Yingkou (No. 35) also appear in the list of world top 50 container ports by throughput in 2010, established in September 2011 by the magazine *Containerization International*. In spite of the economic crisis, the growth of throughput remained at two digits.

#### *Trade regime*

211. The Ministry of Transport (MOT) is responsible for drafting and formulating shipping and port policies. The overall objective of the policies is to open up the market gradually in conformity with WTO commitments, promote full competition in international shipping markets, and constantly improve China's competitiveness in the sector. China has four levels of trade regulation of maritime transport (GATS commitments, free-trade agreements, other preferential regimes, applied regime *erga omnes*).

**Table IV.16**  
**China's top ten above-scale container seaports in terms of throughput, 2010**  
 (10,000 TEU and %)

Rank	Port	2009	2010	Year on year growth (%)	Share of throughput (%)
1.	Shanghai	2,500	2,907	+16.3	20.0
2.	Shenzhen	1,825	2,251	+23.3	15.4
3.	Ningbo-Zhoushan	1,050	1,315	+25.2	9.0
	Ningbo	1,042	1,300	+24.8	8.9
	Zhoushan	8	14	+78.8	0.1
4.	Guangzhou	1,120	1,255	+12.0	8.6
5.	Qingdao	1,026	1,201	+17.0	8.2
6.	Tianjin	870	1,009	+15.9	6.9
7.	Xiamen	468	582	+24.4	4.0
8.	Dalian	458	526	+15.0	3.6
9.	Lianyungang	303	387	+27.7	2.7
10.	Suzhou	254	334	+31.6	2.3
	Total	12,208	14,571	+19.4	

*Source:* Information provided by the Chinese authorities.

212. Regarding cabotage traffic, at present, China imposes strict restrictions on, and prohibits, in principle, foreign-funded companies and foreign ships from engaging in domestic cabotage traffic (including the onward forwarding of international cargo (international relay). However after undergoing registration formalities, foreign shipping companies may transport self-owned or leased empty containers between coastal ports in China. While the legislation foresees the possibility of granting waivers, none has granted.

213. China's GATS commitments regarding international passenger and freight transport contain no restrictions for mode 1 and 2<sup>154</sup>, and conditions the establishment of a company to fly the Chinese flag on the establishment of a joint venture with foreign participation limited to 49%, and on the appointment of the chairman of the board of directors and of the general manager by the Chinese side. China has no commitments regarding other forms of commercial presence i.e. on the onshore establishment of maritime transport operators. However, pursuant to China's Article II MFN exemptions, parties concerned may, through bilateral arrangements, establish wholly foreign-funded companies to provide daily agent services for ships owned or operated by the investors, in accordance with Chinese laws and regulations regarding wholly foreign-funded companies. In addition, the Notice on Strengthening the Administration Work on the Examination and Approval of Wholly Foreign Owned Shipping Companies (Jiao Shui Fa [2011] No. 40), issued on 15 August 2011 allowed the establishment of wholly foreign-owned shipping companies in open port cities where they have stable sources of cargo and passengers. After a full year in operation and having paid up its registered capital, a foreign shipping company may establish branches in open port cities where it has stable sources of cargo and passengers. According to the Chinese authorities, the absence of commitments for "other form of commercial presence" is because China wants to retain the possibility to reciprocate or retaliate in cases where its own maritime transport operators face discrimination or are denied access for their commercial presence abroad.

214. By end 2010, nearly 150 Chinese and foreign international shipping companies had obtained operations qualifications for international liner shipping, in accordance with the Regulations of the

<sup>154</sup> Since 2008, China and Chinese Taipei have agreed to open some of their ports to allow direct maritime traffic between them. This traffic remains closed to third parties.

People's Republic of China on International Ocean Shipping, and were carrying out international liner shipping business in China. Among them, 105 are international shipping companies with overseas registration. In addition, 41 international shipping companies with overseas registration set up as wholly foreign-funded shipping companies in China.

215. China's free-trade agreements with New Zealand, Singapore, Pakistan, Peru, and Chile contain commitments identical to the GATS (by cross-reference for the latter). The FTA with ASEAN does not contain any maritime transport commitments. The Closer Economic Partnership arrangements with the Hong Kong and Macao SARs allow shipping service providers from the Hong Kong and Macao SARs to establish wholly owned shipping companies in mainland China for other form of commercial presence. In addition, shipping service providers from the Hong Kong and Macao SARs are allowed to use liner vessels to freely move empty containers that they own or rent between ports in mainland China, so long as customs formalities are completed.

216. Regarding non-FTA preferential regimes, China has filed two MFN exemptions regarding international freight and passenger transport. The first covers bilateral agreements through which "the parties concerned may establish entities to engage in usual business in China either as joint ventures or wholly owned subsidiaries subject to the Chinese laws on joint ventures and on foreign capital enterprises for ships owned or operated by carriers of the parties concerned". At present, China allows shipping companies registered in countries or regions that have bilateral maritime freight agreements with China to establish wholly owned subsidiaries in China to provide daily agent activities for vessels owned or operated by their investors. China has signed bilateral maritime shipping agreements with more than 60 countries/regions, including the United States, the European Union, and other major maritime transport countries/regions. The second MFN exemption covers cargo-sharing agreements with Algeria, Argentina, Bangladesh, Brazil, Thailand, the United States, and Democratic Republic of Congo (Zaire). However the maritime agreement with the United States no longer includes cargo reservations (since 2003).

217. In terms of the applied regime, the bilateral cargo reservations have never been implemented, nor has the cargo reservation foreseen by the UN Liner Code of Conduct for Liner Conferences, to which China is party. There are also no unilateral cargo reservations, including on food aid and on EXIM bank financed cargo. China applies national treatment regarding subsidies and leaseback shipping fund schemes. The legislation for establishing a shipping company to fly the Chinese flag reflects the GATS commitments, undertaken on a status quo basis.

218. Regarding competition policy for liner services, liner conference agreements, operation agreements, and freight-rate agreements involving Chinese ports that are signed among international shipping operators engaged in international liner transportation, must be submitted to the Ministry of Transport for the record.<sup>155</sup> The liner-freight rates must be submitted (and reported) in the required format. The Shanghai Shipping Exchange is the organ designated by the Ministry of Transport for freight-rate filing and registration. International shipping operators must follow the valid, registered freight rates. Liner trade conference and freight-rate agreement organizations are required to appoint liaison organs and representatives within China to establish a valid consultation mechanism with the shippers or shipper organizations within China.<sup>156</sup> In 2008, China formulated the Anti-monopoly Law to ban monopoly agreements in principle; it excludes other circumstances specified by laws and the

<sup>155</sup> According to the International Maritime Transport Regulations of the People's Republic of China promulgated in 2002, and the Announcement on the Implementing Rules of the International Container Liner Freight Filing, promulgated by the Ministry of Transport in 2009.

<sup>156</sup> According to the Announcement on Strengthening the Supervision and Control of Liner Trade Unions and Freight Rate Agreements issued by the Ministry of Transport in 2007.



---

---

State Council, including provisions on liner conference stipulated in the International Maritime Transport Regulations.

219. China has neither GATS nor FTA commitments on rental of vessels with crew; maintenance and repair of vessels; and supporting services for maritime transport, but currently applies no restrictions on these subsectors. China has no commitments on pushing and towing services, which are reserved, as part of cabotage, to 100% Chinese-owned companies flying the Chinese flag. At present, China has strict restrictions, and a prohibition in principle, on foreign-funded companies and foreign vessels engaging in pushing and towing services. However, some individual ports have foreign shareholders, which implies the existence of some foreign investment in the area of pushing and towing services.

220. For maritime cargo handling China's GATS commitments consist of a "none" for mode 2 and a limitation to joint venture with foreign majority allowed for mode 3. The FTAs with New Zealand and Singapore, Pakistan, Peru, and Chile are identical to the GATS (by cross-reference for the latter). The FTA with ASEAN does not contain any commitments regarding this type of service, while the Closer Economic Partnership agreements with Hong Kong, China and Macao, China allow wholly owned enterprises. In terms of applied regime Article 5 of the Port Law of the Republic of China of 28 June 2003 encourages economic organizations and individuals "at home and abroad" to invest in construction and operations of ports, and the 2011 *Catalogue for the Guidance of Foreign Investment Industries* classify construction and management of public port dock facilities in the "encouraged" category, without mentioning ownership conditions. In practice wholly owned subsidiaries are allowed and numerous; most container terminal companies operating in China have foreign investors among their shareholders. Investors in large facilities include: Hong Kong, China's Hutchison Whampoa Holding; Denmark's AP Moller Terminals; Singapore's PSA; United Arab Emirates' Dubai port world; Switzerland's Mediterranean Shipping Company; Japan's NYK in; Spain's Dragados; and there are numerous other foreign investors in smaller facilities.

221. For customs clearance services and for container depots and stations China's GATS commitments as well as China's FTA commitments with New Zealand, Singapore, Pakistan, Peru, and Chile (by cross-reference for the latter) allow joint venture with foreign majority. The CEPAs with the Hong Kong and Macao SARs allow the establishment of wholly foreign-owned enterprises to operate international shipping container depots and stations, or to provide shipping agency services for vessels that are owned or operated by their parent companies, including customs clearance and inspection declaration.

222. China's GATS and FTA commitments with New Zealand, Singapore, Pakistan, Peru, and Chile (by cross-reference for the latter) for maritime agency services consist in a "none" for modes 1 and 2 and in a limitation to joint venture with foreign ownership limited to 49% for mode 3. The CEPA with the Hong Kong and Macao SARs allow wholly foreign-owned shipping companies to provide daily agency services for shipping transport between Hong Kong and Class II ports in Guangdong Province operated by Chinese mainland vessels that are leased by their parent companies. For enterprises providing third-party public ship agency services, the Chinese mainland/Chinese side is still required to hold the majority share. In terms of the applied regime, maritime agencies are classified in the 2011 *Catalogue for the Guidance of Foreign Investment Industries* in the "restricted" category, with the indication that the Chinese side should hold the majority of the shares.

223. China has undertaken additional commitments under the GATS on access to/use of, on reasonable and non-discriminatory terms and conditions, for all the nine ports services listed in the

maritime model schedule.<sup>157</sup> Commitments in the FTA with New Zealand, Singapore, Pakistan, Peru, and Chile (by cross-reference for the latter) are similar. The Closer Economic Partnership agreements with Hong Kong, China and Macao, China, and the FTA with ASEAN do not contain commitments in that regard. In terms of the applied regime, for considerations of national security, navigation safety, and environmental protection, China applies compulsory pilotage for foreign vessels and grants equal treatment on pilotage fees. Since 2009, the activities of pilotage have been separated from the port enterprises to which they belonged, and have become public institutions with the function of providing public services for ships.

224. Port charges are decided by the MOC and the NDRC, taking into consideration cost and market competition; the charges are applied uniformly across the country. Port operators may set some fees, such as for warehousing and container yard services.

225. There are no GATS or FTA additional commitments on access to use of multimodal transport services but in terms of applied regime there are no restrictions "on the ability to rent, hire or charter trucks, railway carriages, ships or barges and related equipment, for the purpose of onward forwarding of international cargoes carried by sea, or have access to and use of these forms of transport services for the purpose of providing multimodal transport services" to quote the formulation used by the maritime model schedule.

226. In the Closer Economic Partnership agreements with Hong Kong and Macao SARs, China has undertaken commitments on a series of maritime transport services that do not appear in the two classic GATS classifications of maritime transport services (MTN.GNS/W120 and the maritime model schedule), i.e. ship chandling, container leasing, tugging, ship surveys, ship management, and chartering (only between the Hong Kong or Macao SARs and Guangdong province for the latter). Wholly foreign-owned enterprises from Hong Kong, China and Macao, China are allowed to offer routine agent services for vessels owned or operated by the investor, and are allowed to engage in international vessel management business.

227. In terms of the applied regime for these services, wholly foreign-owned enterprise are allowed to offer routine services for vessels owned or operated by the investor while international ship management services are allowed in the form of equity joint venture or contractual joint venture, with foreign ownership limited to 49%.

228. Table AIV.1 includes a summary of the trade regime for maritime transport services.

(b) Inland waterways transport

#### *Market structure*

229. Due to the progressive industrialization of western China, inland waterways transportation is an increasingly important mode of transport for China's development. Land transport (rail, road, and inland waterways) costs and bottlenecks can offset the competitive advantage of the western provinces' cheaper labour costs, which is why the Chinese authorities have made the development of this sector a national priority.

---

<sup>157</sup> (1) pilotage, (2) towing and the tug assistance, (3) provisioning, fuelling and watering, (4) garbage collecting and ballast waste disposal, (5) port captain's services, (6) navigation aids, (7) shore-based operational services essential to ship operations including communications, water and electrical supplies, (8) emergency repair facilities, and (9) anchorage, berth and berthing services.

230. The sector has experienced growth rates well above 20% during the last decade. The Yangtze river alone, is carrying the world highest river cargo volume, with 1.66 billion tonnes in 2011<sup>158</sup>, and 6.48 million TEUs (twenty-foot equivalent units) of container traffic in 2009, compared, for instance, with the 25 million TEUs throughput at the port of Shanghai the same year.<sup>159</sup> The fleet serving this traffic comprises 145,000 vessels with an average size of 250 DWT per vessel. There are plans to standardize the average size of the vessels to 2,000 DWT by 2020 to cater for the expansion of the traffic.<sup>160</sup> The Yangtze river has 246 ports, 42 of which are on the main lines of the river; 22 of these ports are open to international traffic.

#### *Trade regime*

231. China has partial GATS commitments regarding inland waterways freight transportation (11.B.b, CPC 7222): for mode 1, "only international shipping in ports open to foreign vessels shall be permitted"; a "none" for mode 2; mode 3 remains unbound; and mode 4 subject to the horizontal commitments. The mode 1 entry corresponds to the applied regime *erga omnes* as described below. The China-Singapore, China-Pakistan, China-Peru and China-New Zealand agreements replicate the GATS commitments, while China's other FTAs (with ASEAN; Hong Kong, China; Macao, China; and Chile) do not mention this sector. Commitments undertaken by China on services auxiliary to all modes of transport in the GATS or FTA context (see Table AIV.6) do apply to services auxiliary to inland waterways transport.

232. The Ministry of Transport (M.o.T) is the administrative authority in charge of inland waterways transport services. "Construction and management of public dock facilities of ports" and "construction and management of storage facilities relating to transportation services" are classified in the 2011 *Catalogue for the Guidance of Foreign Investment Industries* in the "encouraged" category. Repair, design and manufacture of vessels (including subsection), 'water transport companies', and 'ship agency and ocean shipping tally' are all in the 'restricted' category.

233. International, including foreign, shipping lines may serve directly harbours upriver, notably in Nanjing, and offer direct international services there (e.g. the CVX intra-Asian loop of the Hong Kong based company Gold Star Lines in 2006). In principle, inland waterways traffic (i.e. cabotage traffic between two Chinese river ports or between a Chinese river port and a Chinese sea port) is reserved (both for freight and passengers), to 100% Chinese-owned companies flying the Chinese flag. However, foreign freight forwarders (e.g. TNT, APL logistics, OOCL logistics) and foreign shippers may, and do, freely charter local feeder services. A Switzerland based, Norwegian-U.S. owned company, Viking River Cruises, in association with a local partner, New Century Cruises, has run cruises on the Yangtze river since 2003; it provides the ship, manages them through a catering contract, and markets them worldwide.<sup>161</sup>

234. A summary of the trade regime of the inland waterways transport sector in China is found in Table AIV.2.

<sup>158</sup> *Fairplay magazine*, 19 February 2009.

<sup>159</sup> *Containerization International*, May 2010.

<sup>160</sup> *Fairplay magazine*, 26 May 2007.

<sup>161</sup> *Fairplay Magazine*, 6 May 2004 and 10 June 2004; *Containerization International*, 21 August 2003; and online information. Viewed at: <http://www.vikingrivercruises.com/>.

## (c) Air transport

*Market structure*

235. China's air transport market has grown steadily over the last 25 years with a compound average growth rate of 23% between 1900 and 2000 and of 91% between 2000 and 2010. In 2010, China's total turnover of passenger traffic, cargo, and mail ranked second in the world.

236. In terms of international traffic, in the summer and autumn of 2011 (IATA summer season 2011), 99 foreign airlines operated 1,960 scheduled passenger and cargo flights per week from 107 foreign cities to 32 Chinese cities (1,579 flights for passengers and 381 for cargo). In addition, 20 national airlines operate 2,236 international scheduled passenger and cargo flights per week from 39 Chinese cities to 124 cities in 55 foreign countries (1,933 flights for passengers and 303 for cargo).

237. In terms of domestic traffic, during the same period, 32 domestic airlines (including air cargo companies) arranged 45,484 domestic flights/week on 1,469 air routes (44,660 passenger flights and 824 cargo); cabotage, like virtually everywhere in the world, is reserved in China to domestic airlines. Air services currently serve 173 cities and 175 airports.

238. The size of the air transport industry in China is further described in Table IV.17.

**Table IV.17**  
**China's air transport industry main indicators, 2009-10<sup>a</sup>**

Indicator	Unit	2009	2010
Total transport turnover volume	10,000 tonne-km	4,270,726	5,384,490
Passenger capacity	10,000 persons	23,052	26,769
Total turnover of passenger traffic	10,000 person-km	33,752,354	40,389,960
Cargo capacity	10,000 tonnes	446	563
Cargo and mail turnover	10,000 tonne-km	1,262,307	1,788,982

a These figures reflect only the activities of Chinese airlines.

Source: Information provided by the Chinese authorities.

239. Forty-seven airlines are established in China; 38 are state owned and 16 have foreign equity participation (Table IV.18); 5 are listed as stock companies. Since 2009, CAAC has approved four private or private-holding airlines: ShunFeng Airlines; Yunnan Ying'an Airlines; Uni-top Airlines; and Changlong International Cargo Airlines. Changlong International Cargo Airlines is not yet in operation.

240. China is making considerable investments in its airport network. Between 2006 and 2010, 33 new airports were built, 33 retrofitted and extended and 4 re-located. There are 11 airports currently under construction and the five-year plan 2011-2015 foresees an additional 70 new airports (there are currently 175). In 2010, Beijing Capital international airport became the second busiest airport in the world after Atlanta, and Shanghai Pudong International Airport ranked third worldwide in terms of cargo; 21 Chinese airports have a turnover of over 10 million passengers per year.<sup>162</sup> However, many of the newly built airports in smaller cities are struggling financially (with

<sup>162</sup> *Engineering and Technology Magazine*, "Most Chinese airports 'are losing money'". Viewed at: <http://eandt.theiet.org/news/2012/jan/china-airports.cfm>.

130 airports totalling a cumulative loss of ¥1,68 billion in 2010<sup>163</sup>) as the airport system is starting to feel competitive pressure from the high speed railway network.

**Table IV.18**  
**Foreign equity participation in Chinese airlines, 2011**

Company name	Foreign shareholders	Shares (%)
Air China Limited	HKSCC Nominees Limited	17.00
	Cathay Pacific Airways Limited	18.10
	Public shares, H share and A share	12.04
China Eastern Airlines Corporation Limited	Overseas listed foreign share H share	32.20
China Southern Airlines Company Limited	H share public shareholders	17.89
China Cargo Airlines Ltd.	Concord Pacific Limited	16
	Singapore Airlines Cargo Pte Ltd	16
Shandong Airlines Co., Ltd.	Domestic listed foreign share	35.87
Yangtze River Express Airlines Co., Ltd.	China Airlines Ltd.	25
	Yangming Line (Singapore) PTE. Ltd.	12
	Wan Hai Lines (HK) Ltd.	12
	China Container Express Lin, Inc	6
Hainan Airlines Co., Ltd.	American Aviation	3.06
Air China Cargo Co., Ltd.	Cathay Pacific Airways Limited	25
	Brighten Star Technology Co., Ltd.	24
Great Wall Airlines Co., Ltd.	Singapore Airlines Cargo Pte Ltd	25
	Dahlia Investments Pte Ltd	24
Jade Cargo International Company Limited	Lufthansa Cargo	25
	DRG German Investment and Development Co., Ltd.	24
Shanghai Airlines Cargo International Co., Ltd.	Concord Pacific Limited	25
	Juniper Estate B.V.	20
Donghai Airlines Co., Ltd.	Hong Kong East Pacific (Holdings) Limited	25
China Express Airlines Company Limited	High Hero International Limited	25
	Tampines International Limited	24
Grand China Air Co., Ltd.	Starstep Limited	9.571
	Pan American Aviation Holding	3.998
	Union Trans-Atlantic Limited	0.666
	Perfect Star Investment Limited	0.400
Henan Airlines Co., Ltd.	Pingshan Co., Ltd.	25
	Mountains Trust	24
Grandstar Cargo International Airlines Co., Ltd.	Korea Air Lines (foreign-funded)	25
	Asiana Airlines (foreign-funded)	13
	Shinhan Corporation	11

Source: Information provided by the Chinese authorities.

### Trade regime

241. The Civil Aviation Administration of China (CAAC, formerly the General Administration of the Civil Aviation of China) is the main regulator of the air transport sector. Its status was changed in March 2008 from an organization directly under the State Council to a State Bureau Administered by ministries or commissions. In March 2009, the 33 Offices of the Civil Aviation Operation Safety Supervision were renamed Administrations of Civil Aviation Operation Safety Supervision. In 2011, the number of Administrations was increased to 39. Between 2009 and 2011, China completed the final steps of the reform, launched in 2007, aiming at separating the operation of the air traffic control system from its regulation.

<sup>163</sup> Head of CAAC quoted in *Airport International News*, March 2011.

242. Since 2009, 1 administrative regulation and 13 department rules have been issued by the CAAC, and 9 department rules have been cancelled. All are of a technical nature except for two that have a trade relevance: the Supplementary Provisions on Foreign Investment in Civil Aviation No. IV, allows Hong Kong, China and Macao, China services providers to engage in aircraft maintenance and repair business in Mainland China, in the form of sole investment or controlling interest; and No. V allows Chinese Taipei services providers to invest in Mainland China aircraft repair and maintenance field in the form of a sole investment or joint venture, on the condition that the provider takes the form of a corporate body or in case of a joint investment by several providers that the main investor is a corporate body.

243. China's GATS commitments on aircraft repair and maintenance include a "none" for mode 2 (an important mode for this type of service), and allows commercial presence in the form of joint venture with Chinese controlling shares, and subject to an economic needs test. Two of the FTAs signed by China (China-Pakistan and China-Peru) contain commitments identical to those under the GATS. In four FTAs (with ASEAN, Chile, New Zealand, and Singapore), the requirement for an economic needs test is suppressed. Maintenance and repair of aircraft is in the "permitted" category in the 2011 *Catalogue for the Guidance of Foreign Investment Industries*. The applied regime, which is defined by paragraph 4, Article 6 of the Foreign Investment in Civil Aviation Regulations of 2002, is identical to GATS commitments, which are based on a status quo binding.

244. The trade regime for computer reservation services is somewhat complex. China's GATS commitments in this sector for mode 1 comprise three sections. The first section stipulates that foreign computer reservation systems (CRSs) that have agreements with Chinese aviation enterprises and a Chinese CRS, may provide services to Chinese aviation enterprises and Chinese aviation agents by connecting with the Chinese CRS. The second section states that a foreign CRS may provide services to representative offices and sales offices established in the destination cities in China by foreign aviation enterprises that have the right to engage in business under bilateral aviation agreements. The third section stipulates that direct access to and use of a foreign CRS by Chinese aviation enterprises and agents of foreign aviation enterprises is subject to approval by the CAAC. There are no restrictions for mode 2 while mode 3 remains unbound.

245. All FTAs have commitments identical to those in the GATS on mode 1, except the China-Chile agreement, under which mode 1 does not require Chilean computer reservation service providers to conclude an agreement with Chinese aviation enterprises in order to provide services to these enterprises and to aviation agents by connecting through a Chinese CRS. For mode 3, four FTAs (with ASEAN, Chile, New Zealand, and Singapore) allow the creation of joint ventures with foreign ownership limited to 49%, and an economic needs test, while mode 3 remains unbound in the FTAs with Pakistan and Peru.

246. In terms of the applied regime, computer reservation is in the "permitted" category in the 2011 *Catalogue for the Guidance of Foreign Investment Industries*. The applied regime reflects the GATS commitments under mode 1, i.e. as foreign computer reservation services may provide services to representatives offices and sales offices established in the destination cities in China by foreign aviation enterprises that have the right to engage in business under bilateral aviation agreements. No applications have been received so far by CAAC for access and use of a foreign CRS by Chinese aviation enterprises and agents of foreign aviation enterprises committed under 1(c) of the GATS commitments. The possibility of CRS joint ventures under four of the FTAs signed by China has not been used. A new draft regulation is being prepared with the aim of clarifying the conditions of authorization by the CAAC for direct access to and use of foreign CRSs by Chinese aviation

enterprises and agents of foreign aviation enterprises. This draft legislation is undergoing a process of consultation with interested parties.

247. China has no GATS commitments on selling and marketing of air transport services. The situation is similar for the FTAs with ASEAN, New Zealand, Singapore, Pakistan, and Peru. The China-Chile FTA contains commitments whereby there are no restrictions under modes 1 and 2, and for mode 3, foreign enterprises designated to operate by the relevant bilateral air services agreement may establish offices in China. The applied regime *erga omnes* allows commercial presence only in the form of representatives offices.

248. Providers from Hong Kong, China and Macao China benefit from preferential provisions: the right to set up wholly owned air transport sales agencies with national treatment for the registered capital and for banking guarantees; no preliminary vetting by local representative offices of the China Air Transport Association; and the right to sell tickets on domestic routes.

249. China has no GATS commitments on air transport services not explicitly mentioned in the GATS air transport annex, but has several FTA commitments. The China-Chile FTA contains a commitment on airport operations services with a "none" for modes 1 and 2 and "unbound" for mode 3. The CEPAs with Hong Kong, China and Macao, China contain extensive commitments regarding airport operation services: services suppliers from Hong Kong, China or Macao, China are allowed to provide contract management services for small and medium airports, with a contract limited to 20 years, in the form of cross-border supply, contractual joint ventures, equity joint ventures or wholly owned operations. They are also allowed to provide, through the same legal forms, airport management training and consultation services.

250. In terms of the applied regime since 2009, no changes have been made to the structure regulating auxiliary services. The Regulation on the Administration of Civil Airports, issued on 1 July 2009, defined the respective obligations of the airport management body, the airlines, and other airport-stationed units; the Code of Conduct for operating businesses like retail, catering, and aviation ground services etc.; as well as the qualifications and the Code of Conduct for fuelling services companies.

251. The construction and management of civil airports are classified in the "encouraged" category of the 2011 investment catalogue, with the condition that the Chinese partner shall hold the majority of the shares. There are several joint ventures with substantial foreign shares involved in the management of Chinese airports, for example: Frankfurt Airport (Fraport) had a 24.5% share in Xian airport; the joint venture between Shanghai Airport Authority (SAA) and the Airport Authority of Hong Kong (AAHK), and there are numerous consultancy projects, for instance those of Changi airport with Chongqing, Qingdao, and Chengdu airports.

252. For ground-handling services, the China-Chile free-trade agreement contains commitments with "none" for modes 1 and 2, and commercial presence allowed in the form of joint ventures with foreign ownership limited to 49%. Some bilateral air services agreements also have preferential clauses on ground handling, e.g. the China-United States bilateral air services agreement.<sup>164</sup> A new draft regulation aimed at further liberalizing ground-handling services is being prepared. No information is available on its timetable or content.

253. Regarding specialty air services, the China-Chile FTA contains commitments with "none" for modes 1 and 2 and "unbound" for mode 3. In terms of the applied regime, general aviation companies

---

<sup>164</sup> ICAO WASA database (WASA).

for agriculture, forestry, and fishery are classified in the "encouraged" category of the 2011 investment catalogue but limited to equity or contractual joint ventures, while general aviation companies engaging in photographing, prospecting, and industry are classified in the "restricted" category, with the condition that the Chinese partner must hold over 50% of the shares.

254. Establishment of airlines transportation companies is still classified by the 2011 *Catalogue for the Guidance of Foreign Investment Industries* in the "encouraged" category, with the condition that the Chinese partner must hold the majority of the shares. Since 2002, foreign investors in all-cargo, all-passenger, or combined airlines in China have been allowed to hold 49% of the capital, while the individual shareholding of a foreign investor and its affiliates must not exceed 25%.<sup>165</sup> Foreign investors have established some joint ventures under these provisions.<sup>166</sup> In addition, some passenger airline transportation companies, like Air China Limited, have issued H shares in Hong Kong, China.

255. Allocation of routes for domestic air transport services is regulated by: the Provisions on Domestic Route Operating Permit of Civil Aviation of China (CAAC Order No. 160), the Procedures for Domestic Route Operating Permit of Civil Aviation of China, Notice on Further Regulation of the Cabotage Flight Slot (CAAC Notice No. 102 [2009]), the Notice on Further Regulation of the Supervision of Interim Operating Flight Slot of Overtime Charters of Domestic Routes (CAAC Notice No. 1 [2010]), the Notice on the Further Reform of the Supervision Measures of Domestic Operating Permits and Flights (CAAC Notice No. 16 [2010]) and the provisions on the Administration of Civil Air Transport of Dangerous Goods (CCAR-276). These rules institute a two-tier system.

256. The air route operation licences and scheduled flights among the four airports of Beijing, Shanghai, and Guangzhou are subject to approval and management by the Civil Aviation Administration of China. Air routes and scheduled flights among other domestic airports are subject to registration management, where application, preliminary review, acceptance and publication is managed via internet via the Flight Information Management (Monitoring) System of the Civil Aviation of China at the level of the respective CAAC regional administrations concerned. An airline benefiting from a new route is protected by an exclusivity of two years including on the individual legs constituting the route.

257. A major reform has taken place with regard to price setting for domestic airlines. Under a decision of the CAAC and the National Development and Reform Commission, as of 1 June 2010, prices of first class and the business class tickets on the domestic civil aviation routes are fully liberalized. Specific prices are now determined by the airlines. For international traffic, the Supervisory Regulations on International Air Fares apply by default if the pricing clause of the relevant bilateral air services agreement (BASA) does not stipulate otherwise, e.g. by a free-pricing clause. Under these regulations, carriers must declare their prices 60 days in advance of implementation; the CAAC decides whether to approve the proposed price based on prevailing international prices, market conditions, relevant exchanges rates, and related state policies.

---

<sup>165</sup> WTO document S/C/M/89, 19 November 2007. According to Article 6 of Order 110, "where foreign investors invest in civil airports, the Chinese party shall take the relatively holding position. Where foreign investors invest in public air transport enterprises, the Chinese party shall take the holding position, and the proportion of investment made by one foreign investor (including its associate enterprises) may not exceed 25%. Where foreign investors invest in the general aviation enterprises engaging in business flight, air sight-seeing or that serving the industry, the Chinese party shall take the holding position; where they invest in the general aviation enterprises engaging in agriculture, forestry or fishery operations, the proportion of foreign investment shall be determined by both the Chinese and foreign parties through negotiation".

<sup>166</sup> For more information see WTO document S/C/W/270/Add.2, 28 September 2007, p. 314.



258. According to the Chinese authorities, there is no specific support or subsidy policy for domestic airlines except for support to national airlines opening feeder routes to connect remote areas or areas with backward economic development, so as to ensure universal service. The Chinese government also provides third-party war-risk liability insurance to all Chinese airlines. The coverage is for liability in excess of US\$250 million up to US\$1 billion per occurrence. The policy has to be renewed every year.

259. International scheduled passenger and freight transportation are regulated by bilateral air services agreements. Detailed data on China's aeropolicy until 2005 are contained in the "QUASAR profile" of China.<sup>167</sup> China's weighted air liberalization index was 5.5, and the high and low indexes of the agreements covered by the study were 0 and 14, respectively. Since that document was issued, China has amended or concluded 18 new agreements (Table IV.19).

**Table IV.19**  
**Liberalization of air transport services under China's bilateral air service agreements, 2011**

Partner	Date	5 <sup>th</sup>	7 <sup>th</sup>	Cabotage	Coop	Designation	Withholding	Pricing	Capacity	Stat	ALI
Afghanistan	2006	Y	N	N	N	Multi	SOE	DA	PD	Y	10
Algeria	2006	Y	N	N	Y	Multi	SOE	DA	PD	Y	13
Myanmar	2006	Y	N	N	Y	Multi	SOE	DA	FD	Y	21
Saudi Arabia	2007	Y	N	N	Y	Multi	SOE	DA	PD	Y	13
Tajikistan	2007	N	N	N	N	Multi	SOE	DA	PD	Y	4
Zambia	2007	Y	N	N	Y	Multi	SOE	DA	PD	Y	13
United States <sup>a</sup>	2007	Y	Y	N	Y	Multi	SOE	DD	PD	Y	25
Angola	2008	Y	N	N	Y	Multi	SOE	DA	PD	N	13
Tanzania	2008	Y	N	N	Y	Multi	SOE	DA	PD	Y	13
PDR Korea	2008	N	N	N	N	Single	SOE	DA	PD	Y	0
Sudan	2009	Y	N	N	Y	Multi	SOE	DA	PD	Y	13
Chile	2009	Y	N	N	Y	Multi	SOE	CoO	FD	Y	24
Croatia	2009	Y	N	N	Y	Multi	SOE	DA	PD	Y	13
Russia	2010	Y	N	N	Y	Multi	SOE	DA	PD	Y	13
ASEAN	2010	Y	N	N	Y	Multi	SOE <sup>b</sup>	CoO	FD	Y	24/26
Switzerland	2010	Y	N	N	N	Multi	SOE/PPoB <sup>c</sup>	CoO	PD	Y	17
Cameroon	2010	N	N	N	Y	Multi	SOE	CoO	PD	Y	10
Georgia	2011	N	N	N	Y	Multi	SOE	CoO	PD	Y	10

a Amending protocol.

b With optionally CoI (Community of Interest clause) for the ASEAN parties.

c SOE for China, PPoB for Switzerland.

Note: "5<sup>th</sup>" stands for fifth freedom rights; "7<sup>th</sup>" for seventh freedom rights; "Coop" for cooperation clauses; "Stat" for statistics; "ALI" for Air Liberalization Index; "Y" for yes; "N" for no; "Multi" for multi-designation; "Single" for single designation; "SOE" for substantial ownership and effective control; "PPoB" for principal place of business; "DA" for double approval; "DD" for dual disapproval; "CoO" for country of origin; "PD" for pre-determination; and "FD" for free determination.

Source: ICAO WASA data base; Science Po RITS database; and information provided by the Chinese authorities (ALI computed by the Secretariat).

260. China's recent bilateral agreements are notably more liberal than those in its 2005 QUASAR profile. Aside from the agreement with Korea PDR, they all have an ALI equal to or above 10, close to the high score recorded in the QUASAR profile (14), and largely above it for four agreements (Myanmar (21), United States (25), Chile (24), ASEAN (24/26)). Essentially, liberalization has been

<sup>167</sup> WTO document S/C/W/270/Add.2, "QUASAR profile" of China, pp. I.329 to I.336. On a scale ranging from 0 (classical "Bermuda II" agreements) to 50 (full common aviation market) for more details on the QUASAR methodology see document S/C/W/270/Add.1, pp. I.9 to I.21.

in clauses on fifth freedom rights (present in all new agreements except four); multi-designation (present in all new agreements except one); and cooperation on code-share, which is typical of "modern" agreements (present in all new agreements except four). In addition, there has been some (semi-)liberalization in "country of origin" pricing (in five cases) and in the rare but very liberal free determination of capacity (in three cases).

261. Domestic and overseas airlines are required to apply for slots to the slot-management departments of regional administration bureaux under the CAAC. The slot-management departments of regional administration bureaux then allocate slots in accordance with the Measures for the Administration of Civil Aviation Flight Schedule (Min Hang Fa No. 51 of 2010), and report the results to the CAAC Air Traffic Management Bureau. In accordance with relevant provisions of the Measures for the Administration of Civil Aviation Flight Schedule, the coordination and allocation of slots follows the principles of: openness, impartiality and fairness; historical slots priority, and priority of the continuation of previous season's schedules; benefiting the promotion of large portal aviation pivot construction, the principle of benefiting the promotion of the coordinated development of trunk line and branch line aviation; benefiting the promotion of the normal order of flight; good faith first; and coordination of main and auxiliary airports.

262. The rules also contain a "use or lose" rule if the slot is not used within a week, and prohibit exchanges of slots among airlines, in principle. Applications for airport slots by national and foreign airlines are processed according to the four principles of "impartiality, publicity, justice, and transparency".

263. A summary of the trade regime of air transport services is found in Table AIV.3.

(d) Rail transport services

#### *Market structure*

264. With its relatively lower environmental impact, minimal land take, and ability to serve densely populated areas, rail transport is particularly well suited to the needs of China's economic development. This explains why China is one of the rare countries in the world where classic mixed passenger-freight normal-speed inter-urban railways lines are still being built alongside dedicated freight lines and high-speed dedicated passenger lines. China has the world's longest and fastest high-speed railway network.

265. In 2010, the Chinese railway network comprised 91,178.5 km (corresponding to a railway network density of 95.0 km/10,000 square kilometres), of which 41.1% (37,487 km) double-track lines, and 46.6% (42,464 km) electrified lines. By contrast, in 2008, the total mileage of China's railway was 79,687.3 km, of which 36.2% were double track. The medium long-term plan for the development of the network decided by China's State Council in 2004 and reviewed and accelerated in 2008 foresees a 120,000 km network by 2020, of which 50% would be double track and 60% electrified. The objective is to serve all cities with a population over 200,000 inhabitants.

266. The first high-speed services on a dedicated passenger line, Beijing-Tianjin was opened in August 2008. A network of special railway lines for passenger traffic with a total mileage of over 16,000 km is to be built by 2020 in China. The new railway construction programme includes many inter-regional trunk lines, with passengers and cargo on the same line, so as to promote regional development and alleviate bottlenecks on rail transport. In particular, 12,000 km of lines will be built in western China, and the total railway network in these areas will exceed 50,000 km.

267. The existing network is also to be upgraded: 25,000 kilometres will be electrified, 19,000 kilometres double tracked, 1,066 stations reconstructed or built, and the rolling stock renewed and expanded. Dedicated freight lines, in particular lines dedicated to the transport of coal are also being upgraded. The Daqing railway line, built in 1985-92 for trains of 5,000 tonnes and an annual capacity of 100 million tonnes of coal, has been renovated to handle 20,000-tonnes trains and annual capacity of 400 million tonnes.

268. The volume of railway freight (including luggage) reached 3.5 billion tonnes in 2010 corresponding to 2,764.4 billion tonne-kilometres. Railway passenger traffic reached 1.7 billion persons corresponding to 876.2 billion person-kilometres, respectively.

269. China is also one of the world's largest urban rail transit markets (including metro, light rail, and trolley), as numerous cities are constructing or expanding their urban railway networks. At end 2011, 13 cities had an urban rail transit system with a total length of about 1,600 km. Meanwhile, 1,400 km are under construction. The total length of urban rail transit in China is expected to surpass 3,000 km in 2015.

#### *Trade regime*

270. The Ministry of Railways is the regulatory authority for inter-urban railway transport, and the Ministry of Housing and Urban-Rural Development is the competent department for urban rail transit planning and construction. The Ministry of Railways is both the regulator and the operator of the national railway network and carries out its operations through its railway enterprises and particularly its regional railways bureaux. However, the system is to be reformed with a view to separating the regulatory functions from the operational functions. The rail price-setting mechanism will be further reformed as will the mechanisms for investment in and financing of rail construction and for the subsidization of public rail transport services. In terms of investment and financing of railways, market access will be further opened to encourage private capital investment in the construction and operation of railways.

271. China has no GATS or FTA commitments on railway passenger transport, except in one FTA. The Closer Economic Partnership agreement with Hong Kong, China allows Hong Kong SAR services supplier to operate and manage the Shenzhen metro line 4 in the form of wholly foreign-owned operations.

272. Construction and management of metro and city light rail are classified in the 2011 *Catalogue for the Guidance of Foreign Investment Industries* in the "encouraged" category, with the condition that the Chinese partner must hold the majority of the shares. A new draft regulation on urban and suburban light rail is being prepared so as to encourage marketization and attract private and foreign investment in a sector largely regulated as a public government-owned and managed public utility. No information is available yet on its content or timetable.

273. Railway passenger transportation companies are still classified in the "restricted" category in the 2011 investment catalogue, with the condition that the Chinese partner must hold the majority of the share.

274. For freight transportation, China's GATS commitments consist of a "none" for modes 1 and 2, and allow commercial presence in the form of wholly foreign-owned subsidiaries. The FTAs signed by China with ASEAN, Singapore, New Zealand, Pakistan, Peru, and Chile (by cross-reference for the latter) echo the GATS commitments, while the Closer Economic Partnership agreements with Hong Kong, China and Macao, China do not contain any reference to the subsector.

275. Railways freight transport companies are still classified in the catalogue as "restricted" without limitation on foreign ownership.

276. Construction of railways, although part of construction services and not of railway transport services, has to be tackled together with railway transport, since, in practice the involvement of private and foreign investors is realized through companies in charge of both the construction and the management of the lines.

277. China's GATS commitments for railway construction are the same as for construction in general: wholly foreign enterprises are permitted but may only undertake four types of projects (wholly foreign-financed construction projects; construction projects funded by international financial institutions; Chinese foreign/jointly-constructed projects with foreign investment equal to more than 50% or projects with less than 50% but that are technically difficult for Chinese construction enterprises to implement alone; and technically difficult projects subject to the approval of provincial authorities).

278. The FTAs with ASEAN, Chile, New Zealand, Singapore, Pakistan, and Peru echo the GATS commitments. The closer Economic Partnership agreements with Hong Kong, China and Macao, China contain a complex set of preferential commitments essentially regarding qualifications requirements (see Table AIV.4).

279. The 2011 *Catalogue for the Guidance of Foreign Investment Industries* classifies the construction of railways, the construction of "grid of national trunk railways" and "feeder railways, local railways and related bridges, tunnels and ferries facilities", the "construction and management of metro city light rail" and the "comprehensive maintenance of infrastructure of high speed railways, special railway line and intercity line" in the "encouraged" category. In all cases the condition is that the Chinese partner must hold the majority of the shares, except for the "construction of feeder railways, local railways and related bridges, tunnels and ferries facilities" where equity joint-ventures and contractual joint-ventures are allowed without a ceiling on foreign participation.

280. China encourages private, including foreign, investment in the construction and operation of railways. In 2010, the State Council issued Several Opinions of the State Council on Encouraging and Guiding the Healthy Development of Private Investment (No.13 [2010] of the State Council). This text prescribes the following policy orientations: to push forward the study of the reform plan of the railways regime, to introduce market competition; to promote the diversity of investors; to encourage private investment participation in the construction of main lines, secondary lines, rail ferries, and station facilities; to explore the possibility of setting up investment funds for railways, to actively support operators to become corporatized and listed, and to broaden the scope of private capital access to railways construction. To operationalize this policy guidance, the Ministry of Railways is in the process of finalizing the Regulations on Railway Construction and the Regulations on Railway Transport, with a view to building an open, fair, and impartial market-access system and administration policies for broadening private investment, notably through the participation of insurance and social security funds, other institutional investors, and enterprises in joint-venture railway construction and operation.

281. By end 2010, 180 joint-venture railway companies had been set up throughout China. They procure freely through biddings. They do not receive subsidies and do not have the financial guarantee of the Chinese State or of the Ministry of Railways. These joint ventures account for around 10% of traffic, the bureaux of the Ministry of Railways account for the rest.

282. The 180 established joint-venture railway companies include the Suohuang railway- a joint venture of the Ministry of Railways and Shenhua Group, but exclude Baoshen railways, Shensuo railways and Dazhun railways, wholly funded by Shenhua Group. Three of these joint ventures involve foreign interests: the Jing-Hu High-Speed Railway Company, with the Bank of China Group Investment Limited (Hong Kong) holding 4.537% shares; the Jin-Yu-Lu Railway Transport Corporation, with Bank of China Group Investment Limited (Hong Kong) holding 14.45% shares, and the Guang-Shen Railway Company Limited which made a public offering of H shares in Hong Kong, China in April 1996, and whose American Depository Share was listed on the New York Stock Exchange in May 1996. At present, foreign shares in this company account for 20.2% of the total shares. There are three state-owned but publicly listed railways companies: Daqin railways, Guang-Shen railways, and Tielong Logistics.

(e) Road transport services

*Market structure*

283. The size of China's road freight transport market is commensurate with size of the country and its economic dynamism. In 2010, 11.33 million commercial road vehicles (among which 10.5 million goods vehicles – trucks and vans) carried domestic traffic of 30.53 billion passengers (corresponding to 1,502.08 billion passenger-kilometres), and 24.48 billion tonnes of merchandise (4,338.97 billion tonne-kilometres). All except passenger-kilometres traffic and passenger vehicles experienced two-digit growth year-on-year.<sup>168</sup>

284. As might be expected, the international road transport market appears relatively small compared with the domestic market: 7.8 million passengers (350 million passenger-kilometres) and 29.6 million tonnes (1.6 billion tonne-kilometres) for freight transport in 2010. Both tonnage (+90.4%) and tonne-kilometres (+65.8%) progressed strongly compared with 2009. International freight transport employs only 20,000 drivers, compared with a total of 17.4 million commercial drivers.

285. In terms of intermodal shares, 93% of passenger transportation and 76% of freight transportation was by road. In 2010, 24.55 million persons were employed in the road transport sector (excluding urban passenger traffic). Road freight transport businesses showed constant growth over the decade to 2008, when they numbered 6.1 million, while the number of passenger services enterprises diminished by half due to concentration and integration. The freight transport sector is not highly concentrated as over 85% comprise individual operators owning just one truck, without company status. Companies that own more than 100 trucks account for 4% to 8.5% of the total, depending of the sub-segment considered (special freight transport, container transport, heavy duty transport, dangerous goods transport). The passenger transport sector is somewhat more concentrated as most passenger transport companies own a fleet of between 10 and 49 passenger vehicles. However, concentration varies depending on the subsector (bus lines, taxi, coaches).<sup>169</sup>

*Trade regime*

286. China has made extensive GATS commitments on freight transportation by road in trucks or cars (CPC 7123/w120 11.E.b). There are no restrictions in modes 1 and 2, for market access or national treatment, and wholly owned subsidiaries are permitted under mode 3. There are no

<sup>168</sup> Number of passengers: +9.8%; passenger-kilometres traffic: +11,2%; tonnage of freight: +15%; tonne-kilometres: +16.7%; goods vehicles fleet: +15.8%; passenger vehicles fleet: +5.9%.

<sup>169</sup> International Road Transport Union (2009).

restrictions in mode 3 for national treatment, and mode 4 is unbound as indicated in the horizontal commitments for both market access and national treatment. There are no GATS commitments for road passenger transport nor for any of the other road-transport services (rental of commercial vehicles with operators, maintenance and repair of road transport equipment and supporting services for road transport services).

287. All the free-trade agreements signed by China replicate the GATS commitments for freight transport. The CEPAs with Hong Kong, China and Macao, China contain further commitments on road freight transport, namely the right for providers originating from those two Members to provide non-stop road freight transport services between Hong Kong or Macao and the Mainland and the right for Hong Kong or Macao-invested production enterprises to provide road freight transport services in Guangdong, subject to authorization by the provincial authorities.

288. In addition, some of these FTA contain commitments on other road transport services, such as part passenger transport, and service or maintenance and repair of vehicles.

289. This is the case in the FTAs with ASEAN, Singapore, and Pakistan, in which China has committed part of road passenger transportation CPC 71213, i.e. inter-urban regular transportation<sup>170</sup> (for market access: modes 1 and 2: unbound; mode 3: only in the form of joint ventures with foreign investment limited to 49% and economic needs test required; mode 4: unbound except as indicated in the horizontal commitments; for national treatment: modes 1 and 2 unbound; mode 3: none) as well as on part of maintenance and repair services (CPC 61120)<sup>171</sup>, with a liberal regime (mode 1 and 2: none; mode 3: wholly owned foreign subsidiaries permitted).

290. The China-Peru FTA contains an identically drafted commitment on passenger transport but not on maintenance and repair of vehicles, while the China-New Zealand FTA has the same commitment in maintenance and repair as the three previously mentioned agreements but not on passenger transport. China-Chile does not contain any references to road transport services but China's GATS commitments on road transport are incorporated by reference in this agreement.

291. The CEPAs with Macao, China and Hong Kong contain extensive commitments regarding road passenger transport and services auxiliary to road transport, and the right for providers from Hong Kong, China and Macao, China to provide road transport passenger through wholly owned subsidiaries in the western areas of Mainland China; to set up joint ventures on the Mainland to provide inter-urban regular passenger transportation; to provide direct passenger bus services between Hong Kong or Macao and nine provinces; to set up wholly owned enterprises in Mainland cities to provide passenger public transport and hire-car services in those cities; and to establish passenger terminals and repair stations in Guangdong province subject to the approval of the provincial authorities. The CEPAs also contain commitments on "road freight transport station" but these services are not classified as support services for road transport (but as services auxiliary to all modes of transport); the same goes for "driver training" commitments (education services).

292. Commitments undertaken by China on services auxiliary to all modes of transport in a GATS or an FTA context (see Table AIV.6) apply to road transport.

<sup>170</sup> Defined as "interurban regularly scheduled highway passenger transportation by motor-bus, including passenger accompanying baggage transportation".

<sup>171</sup> Excluding CPC 8867 repair services not elsewhere classified of motor vehicles, trailers, and semi-trailers on a fee or contract basis.

293. The Ministry of Transport is the administrative authority in charge of road freight transport services. Road freight transport companies are classified in the 2011 *Catalogue for the Guidance of Foreign Investment Industries* in the "encouraged" category. "Cross border automobiles vehicles transportation companies" are classified in the "restricted" category.

294. China's internal applied regime for road freight transport appears liberal. There are no restrictions in the GATS sense nor any quantitative regulations on capacity or on prices (these still exist in many OECD countries).<sup>172</sup> The 20 November 2001 Provision on the Administration of Foreign Investment in Road Transport<sup>173</sup> stipulates that foreign investors may establish wholly owned subsidiaries or joint ventures in the sectors of road goods transport, road goods portage and loading and unloading, road goods storage and other supplementary services and vehicle maintenance relating to road transport.

295. Foreign investors also have the right to establish joint ventures in road passenger transport on the following conditions: at least one of the investors must have more than five years of experience in the road passenger transport business within China; the share of foreign investment must be limited to 49%; and 50% of the registered capital must be used in the construction or reconstruction of passenger terminals. The vehicles used must be of middle or upper level. For both freight and passenger transport the duration of the joint venture may not exceed 12 years but may be prolonged to 20 if more than 50% of the registered capital has been used in the construction of passenger and goods terminals. These conditions also apply to operators originating from ASEAN, Singapore, Pakistan, Hong Kong, China, Macao, China, and Peru. By end 2010, there were 3,852 road transport enterprises with foreign investment, a year-on-year increase of 34.5%; passenger transport enterprises had increased by 7.3% and freight transport enterprises by 39.8%.

296. International road transport is regulated by 11 bilateral agreements, with transport quotas determined annually and shared on a 50/50 basis.<sup>174</sup> These agreements also cover passenger transport. The characteristics of these agreements are broadly similar to those of the ECMT model agreement that prevails in Europe<sup>175</sup>, except for prescribed routes, due to infrastructural constraints. China is also a member of three plurilateral agreements: the road transport between China, Kyrgyz Republic, and Uzbekistan (not yet implemented); the agreement between China, Kazakhstan, Pakistan, and the Kyrgyz Republic; and the Cross-Border Transport Agreement of the Greater Mekong Sub-Region (CBTA-GMS) between Laos, Viet Nam, Thailand, China, Cambodia, and Myanmar. The latter contains a multilateral quota that is not yet fully implemented. Similarly, while transit traffic is legally possible in the bilateral and the plurilateral frameworks, it remains largely non-existent.

297. The trade regime for China's road transport sector is summarized in Table AIV.5.

---

<sup>172</sup> For details on internal road transport regimes see WTO document S/C/W/324, pp. 17-21 and 57-64.

<sup>173</sup> Viewed at: <http://www.asianlii.org/cn/legis/cen/laws/potaortswfi886/>, see notably articles 2, 3, 6, and 16.

<sup>174</sup> These agreements have been concluded: Kazakhstan, Kyrgyz Republic, Russia, Mongolia, Uzbekistan, Tajikistan, Democratic People's Republic of Korea, Pakistan, Nepal, Laos, and Viet Nam.

<sup>175</sup> For details on the ECMT model agreement see WTO document S/C/W/324, pp. 22-26.

(v) **Tourism**

(a) Market structure

298. In 2010, China was the world's third tourism destination, after France and the United States, in terms of tourist arrivals, which rose to 55.7 million, up 9.4% over 2009. It ranked fourth after the United States, Spain, and France in terms of receipts, with US\$45.8 billion, up from US\$39.7 billion in 2009 (+15.5%). The World Tourism Organization expects China to become the world's first tourism destination by 2020.

299. For outbound tourism, China ranked third in 2010, after Germany and the United States in terms of international tourism expenditure, with US\$54.9 billion. This expenditure rose fourfold in just ten years, and grew by 26% compared with 2009, making China the world's fastest growing outbound tourism market. Overall, the Chinese outbound market represents 6% of the global outbound market.

300. China's lodging industry has developed considerably in the last 20 years, from a largely state-owned sector to a booming industry, fostered by economic growth and real estate development, and with private and foreign interests involved. It still has great potential compared with penetration rates in developed countries. It is dominated by middle/low-end accommodation, including stand alone, non-rated, non-chain hotels and guest houses, which have a combined market share of 95% (in terms of room numbers). Stars hotel account for 4.5% of total market supply (3.8% for 1 to 3 stars hotels, 0.7% for the 4 and 5 stars hotels) (Table IV.20).

**Table IV.20**  
Structure and development of the tourism sector, 2000 and 2008

Hotel categories	2000		2008		Compound annual growth 2000-08 (%)
	Number	% of total	Number	% of total	
4 and 5 stars hotels	469	0.2	2,253	0.7	+22
1 to 3 stars hotels	5,560	2.3	11,846	3.8	+10
Branded economy hotels	23	0.0	2,805	0.9	+82
Non-chain hotels, guest houses <sup>a</sup>	231,748	97.5	298,989	95.5	+3
<b>Total</b>	<b>237,800</b>	<b>100</b>	<b>315,893</b>	<b>100</b>	<b>+4</b>

a No statistics are available from the National Tourism Administration of China for this category.

Source: National Tourism Administration of China, Euromonitor, Inntie.

301. Forecasters expect the largest growth to take place in the budget/economy chain hotel segment, which accounts for only 15% of the overall hotel sector in China, compared with 70% in the United States. China is said to have the second-largest hotel development pipeline in the world, second only to the United States. However, in certain areas, such as Beijing, Shanghai, and the coastal regions, there is some localized overcapacity, and in some cases occupancy rates are decreasing.

(b) Trade regime

302. The regulatory authority for tourism services is the National Tourism Administration.

303. China's GATS commitments for hotels and restaurants services consist in a "none" for modes 1 and 2, and allow commercial presence in the form of wholly foreign-owned subsidiaries.



They also contain a mode 4 sector-specific entry whereby "foreign managers and specialists including chefs and foreign executives who have signed contract with joint venture hotels shall be permitted to provide services in China".

304. The CEPAs with Hong Kong, China and Macao, China and the FTAs with New Zealand, Singapore, Pakistan, Peru, and Chile (by cross-reference for the latter) replicate the GATS commitments. The FTA with ASEAN does not contain any reference to hotels and restaurants nor to any tourism services. The GATS and FTA commitments reflect the applied regime and are based on status quo bindings.

305. The market share of foreign hotel chains is substantial in the luxury segment, at 60% for five-star hotels, but is much lower for the other segments, at 25% for four-star hotels and 14% for economy and budget chain hotels.<sup>176</sup> Foreign interests are virtually absent from the segment of individually owned hotels. Foreign presence does not necessarily take the form of wholly owned foreign subsidiaries, management agreements, franchise agreements, lease-operate agreements as well as joint ventures are also frequent.

306. China's commitments on travel agencies and tours operators services, comprise a "none" for modes 1 and 2, and allow wholly foreign-owned subsidiaries with no restriction on branching, and national treatment for registered capital. The commitments also include a mode 3 national-treatment restriction, whereby joint-venture and wholly foreign-owned travel agencies are allowed to engage in outbound tourism activities i.e. to organize tours or to book trips for Chinese citizens travelling abroad.

307. China's FTA commitments on travel agencies and tour operator services are somewhat heterogeneous. The agreement with ASEAN does not contain any reference to travel agencies and tour operators; the agreement with Chile reproduces only part of China's GATS commitments; the agreements with New Zealand and Singapore have commitments identical to the GATS; while the agreements with Peru and Pakistan include a full "none" for mode 3 in the market-access column. The Closer Economic Partnership agreements with Hong Kong China and Macao, China contains a series of preferential concessions for Hong Kong and Macao travel agencies and tour operators: travel agents from Hong Kong or Macao established in nine provinces and the municipalities of Beijing and Shanghai may organize group tours to Hong Kong and Macao, respectively, and their minimum entry requirements were lower than those generally applied at the time of signature. However, since 2007, these entry requirements have been the same for all WTO Members and based on the national-treatment principle. This was been confirmed in the Travel Agency Regulations promulgated in May 2009.

308. In terms of the applied regime, under the January 2009 regulations on travel agencies, China initiated the Interim Measures for the Supervision and Administration of the Pilot Operation of the Outbound Tourism Business by Sino-foreign Joint Venture Travel Agencies (No. 33 Order of the National Tourism Administration and the Ministry of Commerce), in August 2010, which authorized, on a pilot basis, the gradual opening to foreign-funded travel agencies of the business of outbound tourism for residents of China's mainland. In May 2011, the National Tourism Administration determined a first list of three Sino-foreign Joint Venture Travel Agencies for Chinese Citizens' outbound tour business: TUI China Travel Co. Ltd.; CITS American Express Business Travel; and JTB New Century International Tours. The results of this pilot programme will be evaluated, and if

---

<sup>176</sup> CB Richard Ellis Research Asia (2009).

deemed successful, it will be extended to other foreign travel agencies through a licensing mechanism.

309. So far, 58 travel agencies have been licenced to operate in China.<sup>177</sup>

310. The Approved Destination Status (ADS) is a programme designed to facilitate group travel of Chinese tourists through the conclusion of consular and of other facilitating measures with partner country or regions. Without this status, a country or region may not receive visits of such groups. However, according to the authorities, this status is granted on request and does not constitute a restriction but a facilitation measure. By May 2011, 140 countries or territories had been granted ADS, including 11 new destinations since China's previous TPR in 2009 (Papua New Guinea, Ghana, Micronesia, Cape Verde, Montenegro, Mali, Canada, United Arab Emirates, Ecuador, Guyana, and Dominica).

311. China has neither GATS nor FTA commitments on tour guides services except with Hong Kong and Macao SARs whose permanent residents with Chinese citizenship are allowed to take the relevant examination and to obtain tour group escort licences for outbound group tours and to be employed by travel agencies from Mainland China, Hong Kong, China and Macao, China that are allowed to provide outbound group services. This generic absence of commitments may be because this activity is reserved, in terms of the applied regime, to Chinese citizens who have obtained the relevant degree.

312. The trade regime for tourism services is summarized in Table AIV.7.

**(vi) Environmental services**

**(a) Market structure**

313. The importance of the Chinese market for environmental services is commensurate with the large population of the country and its rapid development. For instance, the number of urban waste-water-treatment plants grew almost six-fold between 1995 and 2005 (from around 100 plants to 764) and from 2005 to 2010 the market increased from ¥44.29 billion to ¥107.38 billion, corresponding to an annual compound growth rate of 19.5%.<sup>178</sup> By 2010, total industrial solid waste produced in all regions had reached 2.4 billion tonnes. The solid waste disposal market, including hazardous material disposal, is said to represent 11% of the world market, and amounts to US\$10,061,040 million.<sup>179</sup>

314. Growth of this market is expected to exceed 30% in the coming years, as the Government invests massively (¥170 billion planned from 2011 to 2015, i.e. more than the double of the amount invested from 2005 to 2010)<sup>180</sup>, and implements (for environmental services in general) a policy designed to attract private and foreign investors so as to diversify the type of operator, advance marketization, and import state-of-the art technologies. This policy is still being designed as environmental facilities were originally regulated like public utilities, largely municipality owned. For instance, the Beijing Urban Infrastructure Franchise Regulations, promulgated by the Beijing People's Congress Standing Committee in December 2005, allow for the franchise of sewage and solid waste disposal projects in such modes as build-operate-transfer (BOT). The Measures for

<sup>177</sup> WTO document S/C/W/344, 28 October 2011.

<sup>178</sup> Innovation Center Denmark (2009).

<sup>179</sup> Icon Group International (2004).

<sup>180</sup> *China Daily/Xinhua*, 29 April 2011.

Administration of Tianjin Municipal Utilities Franchise, promulgated in July 2005 by the Tianjin Municipal Government, allow foreign capital participation in franchising activities of municipal utilities, such as sewage treatment and waste disposal, in the mode of sole proprietorship, joint venture, or cooperation.

(b) Trade regime

315. China's environmental services commitments under the GATS include sewage services, refuse disposal services, cleaning services of exhaust gases, noise abatement services, sanitation services, nature and landscape protection services, and other environmental protection services under the W/120 classification.

316. However, they exclude, horizontally, environmental quality monitoring and pollution source inspection. The regime is common to all these services: "unbound" for mode 1 except for consultation services; "none" for mode 2; commercial presence allowed only in the form of joint venture with foreign majority ownership.

317. FTA commitments are more liberal in the case of the agreements with ASEAN, Chile, New Zealand, Singapore, and Pakistan, which allow wholly owned-foreign enterprises under mode 3 (for only four services in the case of Pakistan: sewage, refuse disposal, cleaning of exhaust gas, and noise abatement). In the China-Peru FTA, the level of China's environmental services commitments is the same as in the WTO. In 2008, the Chinese Mainland signed Supplement V to the CEPAs with the Hong Kong and Macao SARs, stipulating that the Guangdong Province may approve the qualifications of Hong Kong or Macao service providers to establish environmental pollution control facility operation enterprises in Guangdong.

318. In terms of the applied regime, the 2011 *Catalogue for the Guidance of Foreign Investment Industries* classifies "construction and management of treatment plants for sewage, garbage, the dangerous wastes (incineration and landfill) and the facilities of environment pollution treatment" in the "encouraged" category. By contrast, construction and operation of gas, heat supply, and water drainage network in cities with a population of more than 500,000 people are classified in the "restricted" category, and requires the Chinese side to control shares. The Measures for Administration of Environmental Pollution Control Facilities Operation Qualification Licence, announced in November 2004 by the former State Environmental Protection Administration (SEPA Decree No. 23), contain no limit on foreign-funded enterprises engaging in the operation of professional categories of environmental pollution control facilities, such as domestic sewage, industrial waste water, dust removal, and desulfurization of industrial waste gas, industrial solid waste (except hazardous waste) and garbage.

319. According to China's WTO commitments, under mode 3 (commercial presence), foreign services providers are allowed to engage in environmental services only in the form of joint ventures, but the foreign investment may hold the majority of ownership. In practice, foreign-owned enterprises are already involved in environmental impact assessment services.

320. Table AIV.8 summarizes the trade regime for China's environmental services.

(vii) **Postal and courier services**

321. The amended Postal Law, which entered into force on 1 October 2009, established the rules on the universal postal service and the supervision and administration system for China's postal market. It provides that post administrations are responsible for the supervision and administration of

postal enterprises and express delivery companies. At present, postal administrations consist of the Post Administration of the State Council and under its leadership, postal agencies of provinces, autonomous regions, and municipalities.

322. The newly formed China Post Group Corporation, a wholly state-owned enterprise, is committed to ensuring universal postal services, while also engaging in commercial operation of a competitive business. According to the Postal Law, correspondence (including letters and postal cards) delivery services within the scope prescribed by the State Council must be provided exclusively by postal enterprises. At present, the scope of postal enterprises' exclusive rights is being specified by relevant authorities. The state subsidizes the postal enterprises for the provision of universal postal services, which are defined as the delivery of correspondence, printed matters not heavier than 5 kg, and parcels not heavier than 10 kg each, and postal remittance. A universal postal service fund will be set up to support the provision of universal postal services. According to the 12th Five-Year Plan for Postal Services, the Administrative Measures on the Contribution, Use and Supervision of the Universal Postal Service Fund, as well as the Provisions on the Exclusive Operation Scope of the Postal Enterprises will be issued to complement the regulatory regime of the postal sector.

323. Development of express delivery services has been sustained and rapid; in the past five years, the average growth rate of income from express delivery business has been 19%. In 2010, express delivery services accounted for 45% of the total revenue of China's postal industry. According to the new Postal Law, foreign investors are not allowed to engage in domestic express delivery service for correspondence; this service is in the "prohibited" category in the 2011 *Catalogue for the Guidance of Foreign Investment Industries*. However, foreign-invested express delivery enterprises represented by the four "international integrators" (FedEx, DHL, UPS, and TNT) dominate the international express delivery business in China.

324. The postal authority has also strengthened its administration on express delivery services. Under the Postal Law an express delivery licence must be obtained from the postal authority for the provision of express delivery services. Further, express delivery enterprises that were established in accordance with relevant regulations but did not meet the requirements in the Law, needed to meet the licensing requirements for express delivery before 30 September 2010. In addition to relevant provisions in the Postal Law, the Administrative Measures on Operation Licence of Express Delivery Services also entered into force on 1 October 2009. According the 12<sup>th</sup> Five-Year Plan for Postal Services, the 2008 Measures of Administration on Express Delivery Market are to be amended. Up to July 2011, the postal authority had issued 6,891 express delivery licences and approved foreign-invested enterprises to engage in express delivery services.

325. In order to further expand express delivery services, in 2010, China Post set up China Courier and Logistics Co. Ltd, which is preparing for its initial public offering. If successful, it will become the first express delivery enterprise listed in China. The 12<sup>th</sup> Five-Year Plan for Postal Services states that China will deepen reform and strengthen postal enterprises. The objective is for them to be ranked in the Global 500, and especially to create large express-delivery enterprises.

#### **(viii) Distribution services**

##### **(a) Overview**

326. China's distribution sector continues to develop rapidly. Total wholesale and retail trade increased from about ¥9.3 trillion in 2005 to more than ¥27.66 trillion in 2010. At end 2010, there

were 111,770 enterprises engaging in wholesale and/or retail services in China, with 8.52 million employees. The value-added of wholesale and retail trades amounted to ¥3.57 trillion in 2010, accounting for 8.9% of GDP and 20.7% of the total value-added of the tertiary industry. Foreign investment also continued to grow in this sector. At end 2010, there were 4,266 foreign-invested wholesale and/or retail enterprises (juridical persons) above designated size, employing 967,141 people; 71.1% were wholly foreign-owned enterprises. Total foreign investment in wholesale and retail reached US\$103.2 billion.<sup>181</sup> From January 2009 till June 2011, China approved the establishment of 748 foreign-invested retail enterprises, which utilized foreign investment of US\$2.98 billion. According to a communication submitted by China to the WTO in October 2011, foreign-invested enterprises in the whole distribution sector (including commission agent services, wholesale, and retail) totalled 5,983.<sup>182</sup>

327. Large supermarkets and high-class department stores are relatively new to China's retail sector, and constitute the main businesses operated by foreign-invested retailers. In this area, foreign-invested retailers prevail over domestic retailers. In January 2010, there were 604 foreign-invested comprehensive retail enterprises, accounting for US\$2.26 billion of utilized foreign investment; mainly in the form of department stores (360 units) and large supermarkets (160 units), they used foreign investment of US\$1.78 billion and US\$440 million. These department stores and supermarkets were located mainly in the eastern coastal region.

328. There have been no major changes in the laws, regulations and rules governing distribution services. Since 2008, the Ministry of Commerce has delegated its authority of examining and approving foreign-invested enterprises in some services sectors, including retail, to the competent local administrations. In order to prevent large retailers from abusing their advantageous position in the market, in addition to ensuring the implementation of the Administrative Measures for Fair Transactions between Retailers and Suppliers, the Ministry plans to improve relevant rules and regulations. The Ministry is also promoting the formulation of the Administrative Measures on Urban Commercial Outlets to regulate the construction of large-scale commercial outlets.

(b) Online retail

329. As e-commerce has developed rapidly, online retail in China has experienced explosive growth in the past few years. According to the statistics of the China Internet Network Information Centre, online shopping consumers in China comprised 194 million people, and 37.8% of total netizens at end 2011. Online retail sales grew by 44.6 % over the year 2010, to ¥756.6 billion, which represents 4.2% of the total retail sales of consumer goods in China. Online retail in China is in various forms, including: sales by internet companies whose main business is online retail, some of which are online department stores, others are specialized, such as in books, audiovisual products; sales by traditional retailers; sales on electronic transaction platforms; and online sales by manufactures.

330. The leading online retail platform is Taobao.com with which 50,000 traders are registered. According to Analysys International, an internet research firm, Taobao.com accounted for nearly a third of China's online retail business-to-customer (B2C) market share in the second quarter of 2011, followed by 360buy.com (12.4%) and amazon.cn (2.3%). Clothing, footwear, consumer electronics, and media products constitute the main commodities of online sales. The rapid development of online group purchase drives the online sale of local services, such as catering, the beauty industry, and entertainment.

<sup>181</sup> National Bureau of Statistics of China (2011).

<sup>182</sup> WTO document S/C/W/344, 28 October 2011.

331. Enhanced telecommunication infrastructure, including broadband access, and improved electronic payment facilities contributed to the expansion of e-commerce in China, including online retail. In response to the booming online retail business, the Chinese Government is working on the establishment of regulatory framework. According to the authorities, the Administrative Regulation on Online Retail, which is being drafted, will, *inter alia*, regulate the market access of online retail platforms and provide for rules on online consumers protection. Online retail is apparently subject to laws, regulations, and rules that govern e-commerce and internet in general. The Law on Electronic Signature was promulgated in 2004 and in 2005, the State Council issued a Circular on the Acceleration of E-Commerce with a view to facilitating transactions over the internet. The Central Bank issued the Administrative Measures on Payment Services Provided by Non-Financial Institutions in 2010, which provides rules governing online payment. E-commerce is also subject to internet-related regulations. An internet company directly engaging in online retail services or providing online retail platforms must obtain an ICP (internet content provider) licence. ICP-related licensing requirements and procedures are set out mainly in the Regulations on Telecommunications, the Administrative Measures on Information Services via Internet, and the Administrative Measures for the Licensing of Telecommunication Business Operations, etc. Online retail is maintained in the "restricted" category of the 2011 *Catalogue for the Guidance of Foreign Investment Industries*.

(c) Franchising

332. The regulatory framework on franchising in China was established with the entry into force of the Administrative Regulation on Commercial Franchising in May 2007. To implement this regulation, two department rules entered into force at the same time: the Administrative Measures on Filing for the Operation of Commercial Franchises and the Administrative Measures on Information Disclosure of Commercial Franchises. At end 2011, over 1,700 franchise enterprises, including 39 foreign franchisors, had been filed with the Commerce Franchise Information System. According to the latest annual survey by China Chain Store and Franchise Association, at the end of 2010, there were more than 4,500 franchise units operating over 400,000 franchise stores covering more than 70 industries, which created over 5 million jobs. In 2011, the Ministry of Commerce revised two ministerial measures governing franchise. The revision of the Administrative Measures on Filing for the Operation of Commercial Franchises was completed and set to enter into effect in February 2012. There is now no limitation on foreign-investment in franchising. China removed franchising from the "restricted" category in the 2011 *Catalogue for the Guidance of Foreign Investment Industries*. Foreign franchisors must file with the Ministry of Commerce while domestic franchisors are required to file with the commercial competent authority at the provincial level.

(ix) Logistics services

(a) Market overview

333. China's logistics industry has grown rapidly since accession to the WTO.<sup>183</sup> According to China Federation of Logistics and Purchasing, the total external logistics value was ¥125.4 trillion in 2010, 6.3 times higher than that in 2000. It was mainly boosted by the logistics values of industrial products, imports, and exports. The total logistics value of industrial products was ¥113.1 trillion in

---

<sup>183</sup> The Restructuring and Revitalization Plan for the Logistics Industry issued by the State Council in 2009 defined the industry for the first time. According to this document, the logistics industry refers to a compound service industry integrating transport, warehousing, freight forwarding, and information technology. According to the Chinese authorities, while in practice any enterprise engaging in transport or warehousing or freight forwarding is now considered as a logistics enterprise, the Government is encouraging logistics enterprises to integrate these activities by introducing relevant policies.

2010, representing 90.2 % of the total external logistics value. From 2000 to 2010, the average annual growth rate of external logistics was 22%. The value added of logistics has also grown annually, at 14% since 2000; it reached ¥2.7 trillion in 2010, accounting for about 16% of the total value added of China's tertiary industry and 6.9% of GDP. At the same time, China's logistics spending decreased, from 19.4% of GDP in 2000 to 17.8% in 2010. Nevertheless, this remains much higher than that in developed countries, where logistics spending normally accounts for 10% of GDP. Transport and warehousing spending, respectively, accounted for 54% and 33.9% of China's total logistics spending in 2010. According to the World Bank Logistics Performance Index, China ranked the 27<sup>th</sup> of 130 economies in 2010 up from 30<sup>th</sup> in 2007.<sup>184</sup> According to the World Bank, China's logistics performance is far higher than would be expected based solely on its income level.

(b) Logistics infrastructure and freight transport

334. In line with the rapid increase in fixed asset investment in the last two or three decades, China's logistics infrastructure has been remarkably improved. Improved infrastructure and increased demand from manufacturing and merchandise trade contributed to the rapid growth of logistics industry. According to China Federation of Logistics and Purchasing, China's fixed asset investment in the logistics industry was ¥3.07 trillion in 2010, of which 75.7% (¥2.3 trillion) was in transport and 7.2% (¥223.8 billion) in the warehousing and postal industries. From 2000 to 2010, fixed asset investment in logistics increased 24.1% annually.

335. Freight traffic appears to have increased in each transport mode in the last few years. In 2010, 24.5 billion tonnes of freight were transported by road and turnover was 4.34 trillion tonne/km, up more than four-fold over 2006 (Table IV.21). The volume of road container transport was 52.82 million TEUs and 595.9 million tonnes in 2009, up 50.1% and 62.2% over 2006.

**Table IV.21**  
Basic conditions of freight transport, 2006-10

Item	2006	2007	2008	2009	2010
<b>Length of transport routes (10,000 km)</b>					
Railways in operation	7.71	7.80	7.97	8.55	9.12
Highways <sup>a</sup>	345.70	358.37	373.02	386.08	400.82
Expressway	4.53	5.39	6.03	6.51	7.41
Navigable inland waterways	12.34	12.35	12.28	12.37	12.42
Total civil aviation routes	211.35	234.30	246.18	234.51	276.51
Petroleum and gas pipelines	4.81	5.45	5.83	6.91	7.85
<b>Total freight traffic (10,000 tonnes)</b>	<b>2,037,060</b>	<b>2,275,822</b>	<b>2,585,937</b>	<b>2,825,222</b>	<b>3,241,807</b>
Railways	288,224	314,237	330,354	333,348	364,271
Highways	1,466,347	1,639,432	1,916,759	2,127,834	2,448,052
Waterways	248,703	281,199	294,510	318,996	378,949
Civil aviation	349.4	401.8	407.6	445.5	563.0
Petroleum and gas pipelines	33,436	40,552	43,906	44,598	49,972
<b>Total freight tonne/km (100 million tonne/km)</b>	<b>88,840</b>	<b>101,419</b>	<b>110,300</b>	<b>122,133</b>	<b>141,837</b>
Railways	21,954	23,797	25,106	25,239	27,644
Highways	9,754	11,355	32,868	37,189	43,390
Waterways	55,486	64,285	50,263	57,557	68,428
Civil aviation	94.3	116.4	119.6	126.2	178.9

<sup>184</sup> In the 2010 Logistics Performance Index Report, those 26 countries or regions ranked ahead of China were all developed economies except four: Singapore, Hong Kong China, South Korea and United Arab Emirates.

Item	2006	2007	2008	2009	2010
Petroleum and gas pipelines	1,551	1,866	1,944	2,022	2,197
<b>Table IV.21 (cont'd)</b>					
<b>Possession of civil motor vehicles (10,000 units)</b>	<b>3,697.35</b>	<b>4,358.36</b>	<b>5,099.61</b>	<b>6,280.61</b>	<b>7,801.83</b>
Private vehicles	2,333.32	2,876.22	3,501.39	4,574.91	5,938.71
<b>Possession of other motor vehicles (10,000 units)</b>	<b>8,797.67</b>	<b>9,434.03</b>	<b>9,756.92</b>	<b>10,489.01</b>	<b>11,305.55</b>
<b>Possession of civil transport vessels (unit)</b>	<b>194,360</b>	<b>191,771</b>	<b>184,190</b>	<b>176,932</b>	<b>178,407</b>
Motor vessels	157,805	157,544	152,247	149,367	155,624
Barges	36,555	34,227	31,943	27,565	22,783
<b>Volume of freight handled in coastal ports above designated size (10,000 tonnes)<sup>b</sup></b>	<b>342,191</b>	<b>388,200</b>	<b>429,599</b>	<b>475,481</b>	<b>548,358</b>

a Length of highways includes village roads since 2005.

b Since 2009, statistical coverage above designated size refers to coastal seaport with capacity over 10 million tonnes yearly and inland port over 2 million tonnes yearly.

Source: China Statistical Yearbook 2011.

336. While the volume of freight transport by rail is less than that by road, more than half of rail transport revenue is from freight transport (¥139.3 billion in 2006). The major types of goods transported by rail are coal, petroleum, smelting materials (coke, ore, steel, etc.), building materials, grain, fertilizer, and containers. Coal constitutes nearly half of the goods transported by rail. In 2010, fixed asset investment in the rail sector reached ¥842.7 billion, with annual growth of nearly 20%.

337. In 2010, freight throughput of 'above-scaled' coastal ports was 5.5 billion tonnes and total freight traffic by waterways about 3.8 billion tonnes. Coal, minerals, construction materials, petroleum, steel, and machinery and electrics were the main types of goods transported. Coal constitutes nearly one fifth of the total amount of freight traffic by waterways.

338. Air freight, which accounted for less than 2% of total freight traffic in China, amounted to 5.63 million tonnes in 2010, of which 1.93 million tonnes were transported on international routes and 3.70 million tonnes on domestic routes. Freight throughput of the airports was 8.6 million tonnes in 2009, up 14.3% over 2006. The top 10 freight airports by turnover in 2007 are: Shanghai Pudong; Beijing Capital; Guanzhou Baiyun; Shenzhen Baoan; Shanghai Hongqiao; Chengdu Shuangliu; Kunming Wujiaba; Hangzhou Xiaoshan; Xiamen Gaoqi; Nanjing Lukou. Shanghai Pudong Airport had the highest freight turnover in China, Nanjing Lukou had the highest growth rate.

#### (c) Storage and warehousing

339. According to China's second economic census, there were 17,415 storage and warehousing enterprises in 2008, which had ¥569.45 billion of assets, employed 5,110,000 people, and generated revenue of ¥89.7 billion. In 2007, the revenue of storage and warehousing services was ¥302.1 billion. They comprised a relatively smaller subsector of China's logistics industry, accounting for 7.6% of the total assets or 9.6% of the total revenue of the industry. However, this subsector has grown rapidly (the annual growth rate of general revenue was 35% from 2004 to 2008). In 2010, fixed asset investment in storage and warehousing was ¥181.2 billion, representing only 6.5% of the total fixed asset investment in transport, storage, and post.<sup>185</sup>

340. China's existing storage and warehouse facilities barely meet its fast increasing market needs. According to a survey conducted by China Materials Storage and Transportation Association, the

<sup>185</sup> National Bureau of Statistics of China (2011).



warehouse vacancy rate in China was 3% in 2008, much lower than the rate deemed normal in the industry, of 20%. In this context, logistics operators in China including not only storage and warehousing enterprises, but also freight forwarders and 3PL providers, have increased their investment in building and upgrading storage and warehouse facilities, including specialized warehouses (e.g. warehouses for hazardous goods, cold storage).

341. Domestic enterprises mainly engaging in storage and warehousing services are generally very small. In 2008, the average number of employees per enterprise was only 29. Recent mergers and acquisitions in the logistics industry mostly involved storage and warehousing enterprises.<sup>186</sup> With ¥12.5 billion of assets, 8.31 million square meters of land, 6,700 employees, and 6.2 billion tonnes of annual throughput, China Material Storage and Transportation Corp (CMST), a state-owned enterprise, is the sector leader.

342. Foreign logistics enterprises also provide storage and warehousing services in China. The world's leading warehouse developer and operator, Prologis, formed its first joint venture in Suzhou in 2004. Prologis is now present in 20 coastal and inland Chinese cities with 8.1 million square meters in operation.

(d) Freight forwarding

343. Until 1 July 2004, engaging in international freight forwarding services in China was subject to administrative approval by the competent authority responsible for foreign trade. As of 1 July 2004, 5,012 enterprises had obtained such approval, of which 2,555 were juridical persons, 2,457 branches. Enterprises engaging or wishing to engage in international freight forwarding services are required currently only to file with the local authority responsible for commerce. As of May 2010, there were 25,606 'filed' international freight forwarders, of which 20% were state-owned or state-controlled, 20% with foreign investment, and 60% private domestic enterprises. State-owned or controlled freight forwarders prevail in terms of market share and overall turnover. A study undertaken in 2010 shows that state-owned or state-controlled enterprises operate about 40% of freight forwarding businesses in China, foreign-invested enterprises 30% and private domestic enterprises 30%.<sup>187</sup> According to China International Freight Forwarding Association, China National Foreign Trade Transportation Corp (Sinotrans), a state-owned enterprise, is the biggest freight forwarder in China with a turnover of ¥74.3 billion in 2009; while the total turnover of the top 10 private freight forwarders was around ¥30 billion. Big Chinese freight forwarders are transforming or have transformed into third-party logistics providers; their businesses now cover a wide range of activities along the logistics chain.

(e) Third-party logistics (3PL)

344. The concept of third-party logistics (3PL) remains relatively new to China and the 3PL market is in its early stages, as most domestic enterprises continue to operate their own logistics as an in-house business. According to a 2008 study by KPMG, while the majority of multinational corporations use 3PL in China, only 15% of domestic companies use outside logistics firms; 3PL's share of China's logistics market is estimated to be around 20%, which is considered low compared with the EU (35%), the US (57%), and Japan (80%).<sup>188</sup> According to another study, the total cost of

<sup>186</sup> China Association of Warehousing and Storage online information. Viewed at: [www.caws.org.cn](http://www.caws.org.cn).

<sup>187</sup> Mei Zanbin & Liu Jianxin (2010).

<sup>188</sup> KPMG (2008).

the 3PL in China was ¥230 billion in 2006, accounting for less than 6.1% of the nation's total logistics cost (¥3.8 trillion).<sup>189</sup>

345. China's domestic logistics enterprises may be state-owned/controlled or private. Most state-owned/controlled logistics operators have developed from traditional state-owned transport or warehousing enterprises. Some are subsidiaries of state-owned enterprises in other industries (e.g. chemical, electronics, mineral industries), which engage in the logistics industry in order to diversify their business. State-owned/controlled operators hold 50% of China's logistics market. Most domestic private logistics enterprises are small and only operate local businesses. More than 700,000 logistics enterprises are registered in China, but less than 1% of them are truly integrated logistics enterprises; most provide a single logistics service, such as freight forwarding or warehouse managing. Even the largest enterprise in this industry has a market share of less than 2%.

346. According to China Federation of Logistics and Purchasing, the combined revenue of the top 50 biggest logistics enterprises in China (i.e. annual revenue of over ¥1 billion), was ¥450.6 billion in 2009. Among the top 50, 18 were SOEs, and 6 were foreign-invested; 30 were logistics enterprises whose main business was transport; 8 mainly operated warehousing and storage services; and only 12 were integrated logistics enterprises; 80% were located in the east of China.

347. China Ocean Shipping Group Corp (COSCO), the largest domestic logistics enterprise, had revenue of ¥155.0 billion in 2006. Other top domestic logistics enterprises include: China Shipping Corp; China National Foreign Trade Transportation Corp (Sinotrans); China Material Storage and Transportation Corp (CMST); China Railway Express Corp (CRE); China Post. The CRE has the largest service network throughout China, while the COSCO's network mainly covers the coastal areas.

348. According to statistics by MOFCOM, from 1998 to end 2011, there were 6,415 foreign-invested enterprises established in transport, storage and warehousing, and postal services, the total actually utilized foreign capital being US\$24.79 billion, representing 2.6% of the total inflow of foreign investment in the same period. One study indicated that services provided by foreign-invested logistics enterprises represent about 22% of China's logistics market.<sup>190</sup> Foreign-invested logistics operators have prevailed China's domestic enterprises in international express delivery, sea-freight forwarding, and specialized logistics services. For example, Schenker's subsidiary in China was selected to operate as the official freight forwarding & customs clearance supplier for the 2008 Beijing Olympic Games. Schenker has operations in over 50 key cities throughout China with more than 4,700 employees.

349. Other world leading logistics operators (e.g. Agility, YRC Worldwide, EAS, BAX, Panalpina, Kuehne+Nagel, FedEx, TNT, UPS, TNT, Maersk Logistics, APLL, ZIM Logistics, NYK Logistics, etc.) all have a presence in China, through either joint-ventures in the early years or 100% owned subsidiaries since 2005. They have accelerated their expansion in China in recent years, particularly through acquisition of domestic logistics enterprises. For example, in 2007 Agility acquired Guangzhou Runlong International Transportation Co Ltd, an ocean freight forwarder based in Guangdong, and Cosa Freight, a Shenzhen-based ocean freight forwarder known for its expertise in multi-country consolidation and value-added services, such as transloading direct-to-store programmes. In 2008, Agility also acquired Baisui United Logistics (Shanghai) Co., Ltd. With services covering 150 Chinese cities, Agility now has more than 40 offices, 1,500 staff, over 200,000 sq.m. of warehousing storage capacity and its own fleet, trucks, and contracted vehicles in

<sup>189</sup> China Knowledge Online. Viewed at: [www.chinaknowledge.com](http://www.chinaknowledge.com).

<sup>190</sup> Mei Zanbin & Liu Jianxin (2010).

China. Similarly, YRC Worldwide acquired JHJ International, a trucking carrier, in 2005 and Shanghai Jiayu Logistics Co., Ltd. (Jiayu), in 2007, one of China's largest national providers of truckload and less-than-truckload services.

350. The "big four" integrated operators play an important role in China's logistics market. TNT in China has 34 branches and 5 international gateways for international express delivery business, as well as 57 operation hubs and 1,600 depots for domestic road distribution. TNT employs 21,000 professional employees with services covering over 600 cities in China, making China its second largest market, after Europe. TNT has dedicated Boeing 747 freighters operating seven flights per week between Shanghai and Europe and five flights per week between Hong Kong and Europe. FedEx set up its Asia-Pacific Hub in Guangzhou and operates 30 weekly U.S.-China frequencies, including weekly flights serving Shanghai, Beijing, and Shenzhen. FedEx employs more than 6,000 people in China and its service network now covers over 300 Chinese cities. DHL has more than 200 agencies providing services to more than 400 cities in China. UPS serves 330 Chinese cities and operates 200 weekly flights connecting China to markets around the world. Its flights now operate in six Chinese cities.

(f) Logistics parks (including bonded logistics parks) and logistics hubs

351. According to a survey carried out by China Federation of Logistics and Purchasing, there were 475 logistics parks in China in 2008, of which 122 were in operation and the others were under construction or planning. More than 54% of these logistics parks were located in the coastal regions. In terms of size and functions, the parks are very diverse, ranging from small areas with a few warehouses or distribution centres, to comprehensive industrial zones grouping various logistics enterprises. Some logistics parks were built and operated by local governments as supporting services provided to business. There are also logistics parks operated by private or foreign capital.

352. Bonded logistics parks, which are established in bonded zones or special ports adjacent to bonded zones operate under Customs supervision to facilitate imports and exports, especially processing trade and transit trade.

353. Shanghai has the country's largest seaport and the second-largest airport in terms of air-freight throughput. With the advantages of deep-water ports, airports, land transport, and full port facilities, Shanghai is developing four major logistics parks, located at WaiGaoQiao, Pudong Airport, Northwest, and the Yangshan deep-water port. Suzhou is the secondary logistics hub in Yangtze River Delta, due to the significant presence of foreign manufacturers. In the same region, Ningbo port's freight throughput ranked third in China in 2010.

354. In the Pearl River Delta where industries focus on processing and export, Shenzhen has become the most important logistics hub in south China owing to its location adjacent to Hong Kong, and its own port. In recent years, the municipal government of Guangzhou has been promoting the region as a logistics hub, leveraging on its status as a centre for manufacturing, its well-established transportation network, and rapidly developing logistics infrastructure.

355. The Bohai Bay Region has high logistics demand and freight traffic; Shandong Province has the highest freight traffic volume in China. Logistics activities in Tianjin, the economic centre of North China, are currently centred around Tianjin Airport and the Binhai New Area, which consists of the Tianjin Port and the Tianjin Economic Technological Development Area (TEDA). The central government has identified logistics as a key growth area for the city, and strongly supported

municipal plans to develop the Binhai New Area and enhance the city's logistics infrastructure. Dalian is the gateway for goods from the north-east entering the Bohai Sea.

356. While the coastal areas remain the overwhelming focus of logistics activities, new logistics hubs are emerging in inland China. Chengdu, Hangzhou, and Shenyang have strong consumer markets while Chongqing, Wuhan, Nanjing, Harbin, Changchun, Xian and Zhengzhou represent the major industrial hubs for the rapidly expanding domestic markets. Unlike the coastal logistics hubs, where imports and exports are major factors for logistics development, the logistics markets in inland cities are driven mainly by the growth of the domestic economy. They also have the advantage of lower costs for land and labour.

(g) Regulatory framework

357. While there is no single competent authority overseeing the logistics industry in China, more than a dozen of government departments are responsible for logistics-related regulations. In order to facilitate internal coordination, the National Inter-Ministerial Joint Meeting on Modern Logistics was set up in 2005. This institution, with the National Development and Reform Commission taking the lead, involves 15 ministries and agencies that meet one or twice per year.<sup>191</sup> The State Council issued the Restructuring and Revitalization Plan for Logistics Industry in March 2009; and in August 2011, the General Office of the State Council issued the Opinions on the Policies and Measures for Promoting the Sound Development of Logistics Industry, which anticipate, *inter alia*, tax reductions and further favourable land policies for logistics enterprises, eliminating or reducing road tolls, and more investment in logistics infrastructure. The Opinions encourage big logistics enterprises to consolidate the fragmented industry through mergers and acquisitions, and set farm produce logistics as priority. Also in June 2010, the National Development and Reform Commission issued the Development Programme for Farm Produce Cold Chain Logistics. In the newly amended *Catalogue for the Guidance of Foreign Investment Industries*, modern logistics and related technical services, logistics information consulting services are classified as "encouraged".

358. Logistics-related laws, regulations or rules are scattered in various sectors. For example, numerous regulations governing transport, especially freight transport, are also relevant for logistics services, such as: the provisions governing maritime transport in the Maritime Law (1992); Regulation on International Maritime Transport (2002) and its Implementation Rules (2003); Interim Measures for the Examination and Approval of Wholly Foreign-funded Shipping Companies (2000); Administrative Measures on Foreign Investment in International Maritime Transport (2004); Administrative Measures on Port Management (2004); the Regulation on Road Transport (2004); Administrative Measures on International Road Transport (2005); the Administrative Measures on Foreign Investment in Road Transport and its supplementary provisions (2001, 2003, 2004); Administrative Measures on Road Transport of the Radioactive Substances (2011); Administrative Measures on Road Transport of Hazardous Goods (2011); Administrative Measures on Road Freight Transport and Depots (2009); Interim Measures on Examination, Approval and Administration of Foreign Investment in Railway Freight Transport (2000); Administrative Regulation on Waterways Transport (2009) and its Implementation Rules (2009); Measures on Foreign Investment in Civil Air Transport and its supplementary provisions (2001, 2004, 2007, 2008, 2010) . The Postal Law (2009)

---

<sup>191</sup> The 15 departments and agencies are: the Ministry of Commerce; the Ministry of Railways; the Ministry of Transport; the Ministry of Industry and Information Technology; the Civil Aviation Administration; the Ministry of Finance; the Ministry of Public Security; the General Administration of Customs; the State Administration of Taxation; the State Administration for Industry and Commerce; the General Administration of Quality Supervision; Inspection and Quarantine; the State Standardization Commission; China Federation of Logistics and Purchasing; and China Transport Association.

and the Administrative Measures on Operation Licence of Express Delivery Services (2009) provide for rules on express delivery (see above).

359. The Ministry of Commerce is the competent authority in China with respect to freight forwarding. Main regulations and rules include: the Administrative Regulation on International Forwarding Agency Services and its Implementation Rules (2004); the Administrative Measures on International Forwarding Agency Enterprises with Foreign Investment (2005); and the Interim Measures for the Filing of International Freight Forwarders (2005). Foreign investors are allowed to establish wholly foreign-owned freight forwarding agencies in China and are subject to the same registered capital requirement as domestic freight forwarders (no less than US\$100 million). Foreign-invested freight forwarders are allowed to engage in a wide range of businesses, including: ship booking, customs clearance, storage and warehousing, freight forwarding agent, international express delivery, international multimodal transport, container transport, consultancy. An application for the establishment of a foreign-invested freight forwarder is submitted to the commercial competent authority at the provincial level and a decision on the application must be taken within 30 days. All international freight forwarders are registered with the Ministry of Commerce. As freight forwarders and logistics operators also provide customs brokerage services, they are also subject to regulations and rules in this regard, such as the Administrative Measures on Customs Declaration Unit Registration (2005), and Administrative Measures on Customs Inspection and Quarantine Agencies (2002).

360. The Government is promoting the application of uniform logistics-related technical standards across the country, as part of its efforts to integrate the logistics industry. A sub-commission on logistics technical standardization was established under the State Standardization Commission in 2003. The latter, together with other ministries and agencies, issued the National Specific Programme for Logistics Standardization in 2010, which identified standardization tasks related to logistics in 13 areas, including transport, storage and warehousing, freight forwarding, some special product-related logistics (grains, cold chain, pharmaceuticals, car parts, etc.), and postal and express delivery. At end 2010, 22 national logistics standards and more than 20 logistics industrial standards had been issued.

361. China has made commitments on logistics-related services under the GATS. Apart from its commitments regarding transport services, China has also made phase-in commitments on storage and warehousing services (CPC 742), and freight forwarding agency services (CPC 748 and 749 excluding freight inspection). According to these commitments, wholly foreign-owned subsidiaries in these two sectors are permitted, respectively, since 2004 and 2005. In general, there are no limitations on national treatment except in freight forwarding agency services. A foreign freight forwarding agency must have at least three consecutive years of experience before establishing in China; a second joint venture may be set up only after its first joint venture has been in operation for two years; the operating term of a joint-venture freight forwarding agency may not exceed 20 years; and a joint-venture freight forwarding agency may set up branches after one year of operating in China. China's PTAs confirm its GATS commitments in these sectors.



---

---

## REFERENCES

- Anderson, Robert D., Anna Caroline Müller, Kodjo Osei-Lah, and Philippe Pelletier (2011), "Assessing the value of future accessions to the WTO Agreement on Government Procurement: Some new data sources, provisional estimates, and an evaluative framework for WTO Members considering accession", World Trade Organization Staff Working Paper ERSD-2011-15, Geneva.
- CB Richard Ellis Inc. (2009), *Hotel Operator in China: New Opportunities in a More Sophisticated Marketplace*, Special Report, April, Los Angeles.
- Communist Party of China (2008), *China liberalizes farmers' land use right to boost rural development*, 20 October. Viewed at: <http://english.cpc.people.com.cn/66102/6517721.html>.
- Conway, P., T. Chalaux, and R. Herd (2010), *Reforming China's Monetary Policy Framework to Meet Domestic Objectives*, OECD Economics Department Working Papers No. 822, Paris.
- EXIM Bank (2010), *Annual Report 2010*. Viewed at: <http://english.eximbank.gov.cn/annual/2010/2010nb23-34.pdf> [13.10.2011].
- Export & Credit Insurance Corporation, *2010 Annual Report*. Viewed at: <http://www.sinosure.com.cn/sinosure/gywm/xbkw/gsnb/default.html>.
- FAO (2002-2011), Fisheries and Aquaculture Department, *Fishery and Aquaculture Country Profiles, China*, Rome. Viewed at: [http://www.fao.org/fishery/countrysector/FI-CP\\_CN/en](http://www.fao.org/fishery/countrysector/FI-CP_CN/en) [08.12.2011].
- Financial Stability Board (2011), *Policy Measures to Address Systemically Important Financial Institutions*. Viewed at: [http://www.financialstabilityboard.org/publications/r\\_111104bb.pdf](http://www.financialstabilityboard.org/publications/r_111104bb.pdf).
- Guifang Xue (2005), *China and international fisheries law and policy*, Martinus Nijhoff Publishers.
- Guifang Xue (2006), "China's distant water fisheries and its response to flag state responsibilities", *Marine Policy*, volume 30, Issue 6, November, pp. 651-658.
- Icon Group International (2004), *The 2005-2010 World Outlook for Remediation and Waste Management Services*, 1 April. Viewed at: <https://trade.britishcolumbia.ca/Partnerships/Documents/China-Solid%20and%20Hazardous%20Waste%20Management.pdf>.
- IMF (2011a), *People's Republic of China: Staff Report for the 2011 Article IV Consultation*. IMF Country Report No. 11/192. Viewed at: <http://www.imf.org/external/pubs/ft/scr/2011/cr11192.pdf>.
- IMF (2011b), *People's Republic of China Sustainability Report*. Viewed at: <http://www.imf.org/external/np/country/2011/mapchina.pdf> [18.01.2012].
- Innovation Center Denmark (2009), *Waste water treatment in China*, August. Viewed at: [http://www.shanghai.um.dk/NR/rdonlyres/8483FA1C-DC53-4C7D-ADAB-E6148C25C99C/0/Industry\\_Analysis\\_Report11082009.pdf](http://www.shanghai.um.dk/NR/rdonlyres/8483FA1C-DC53-4C7D-ADAB-E6148C25C99C/0/Industry_Analysis_Report11082009.pdf).
- International Road Transport Union (2009), *Road transport in the People's Republic of China*, December. Viewed at: <http://www.iru.org/cms-filesystem-action?file=mix-publications/RTinChina.pdf>.

KPMG (2008), *Logistics in China, 2008*. Viewed at: [http://www.kpmg.com.cn/en/virtual\\_library/Property\\_Infrastructure/LogisticsChina.pdf](http://www.kpmg.com.cn/en/virtual_library/Property_Infrastructure/LogisticsChina.pdf).

Liu, C and B. Wu (2010), '*Grain for Green Programme*' in China: Policy Making and Implementation?, The University of Nottingham, China Policy Institute, Briefing Series -- Issue 60, April.

Mei Zanbin & Liu Jianxin (2010), *Report on China's International Freight Forwarding Development*. China Materials Press, Beijing.

National Bureau of Statistics of China (2011), *China Statistical Yearbook of 2011*, Beijing.

OECD (2002), *Agricultural Policies in OECD Countries. A Positive Reform Agenda*, Paris.

OECD (2007), *Agricultural Policies in OECD Countries Monitoring and Evaluation 2007*, Paris.

OECD (2009a), *Agriculture Policies in Emerging Economies 2009: Monitoring and Evaluation*, Paris.

OECD (2009b), *OECD Reviews of Regulatory Reform: China: Defining the Boundary Between the Market and the State*. Viewed at: <http://www.oecd.org/dataoecd/35/45/42390089.pdf>.

OECD (2010a), *Agricultural Policies in OECD Countries, at a glance, 2010*, Paris.

OECD (2010b), *OECD Economic Surveys: China*, Paris.

OECD (2010c), *OECD Territorial Reviews: Guangdong China 2010*, Paris.

OECD (2011), *Agriculture Policy Monitoring and Evaluation 2011: OECD Countries and Emerging Economies*, Paris.

Porter, N and T. Xu (2009), What Drives China's Interbank Market?, IMF Working Papers WP/09/189. Viewed at: <http://www.imf.org/external/pubs/ft/wp/2009/wp09189.pdf>.

State Intellectual Property Office of the PRC (2011), *China's Intellectual Property Protection in 2010*, Beijing. Viewed at: <http://www.nipso.cn/oneas.asp?id=11395>.

Sumaila UR, A. Khan, AJ. Dyck, R. Watson, G. Munro, P. Tydemers, and D. Pauly (2009), *A Bottom-up Re-estimation of global fisheries subsidies*, University of British Columbia, Working paper #2009-11. Viewed at: <http://www.fisheries.ubc.ca/publications/working-papers> [November 2011].

UNCTAD (2011), *World Investment Report 2011*. Viewed at: <http://www.unctad-docs.org/files/UNCTAD-WIR2011-Full-en.pdf>.

US EXIM Bank (2010), *Report to the US Congress on Export Credit Competition and the Export-Import Bank of the United States for the Period January 1, 2009 through December 31, 2009*. Viewed at: [http://www.exim.gov/about/reports/compet/documents/2009\\_competitiveness\\_report.pdf](http://www.exim.gov/about/reports/compet/documents/2009_competitiveness_report.pdf).

USDA FAS (2011a), *China - General Rules for the Labeling of Prepackaged Foods*, 25 May, GAIN Report Number CH 110030. Viewed at: <http://gain.fas.usda.gov/Recent%20GAIN%20Publications/>



General%20Rules%20for%20the%20Labeling%20of%20Prepackaged%20Foods\_Beijing\_China%20-%20Peoples%20Republic%20of\_5-25-2011.pdf.

USDA FAS (2011b), *China - Grain and Feed Annual*, 8 March, GAIN Report Number CH 11014. Viewed at: [http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Grain%20and%20Feed%20Annual\\_Beijing\\_China%20-%20Peoples%20Republic%20of\\_3-8-2011.pdf](http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Grain%20and%20Feed%20Annual_Beijing_China%20-%20Peoples%20Republic%20of_3-8-2011.pdf).

USDA FAS (2011c), *China - Livestock and Products Semi-annual Report*, 4 April, GAIN Report Number CH 11012. Viewed at: [http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Livestock%20and%20Products%20Semi-annual\\_Beijing\\_China%20-%20Peoples%20Republic%20of\\_3-10-2011.pdf](http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Livestock%20and%20Products%20Semi-annual_Beijing_China%20-%20Peoples%20Republic%20of_3-10-2011.pdf).

USDA FAS (2011d), *China - Regulation on Inspection of Exit-Entry Dairy Products (Draft)*, 24 March. Viewed at: [http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Regulation%20on%20Inspection%20of%20Exit-Entry%20Dairy%20Products%20\(Draft\)\\_Beijing\\_China%20-%20Peoples%20Republic%20of\\_3-24-2011.pdf](http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Regulation%20on%20Inspection%20of%20Exit-Entry%20Dairy%20Products%20(Draft)_Beijing_China%20-%20Peoples%20Republic%20of_3-24-2011.pdf).

USDA FAS (2011e), *China - Sugar Annual*, 15 April, GAIN Report Number CH 11019. Viewed at: [http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Sugar%20Annual\\_Beijing\\_China%20-%20Peoples%20Republic%20of\\_4-15-2011.pdf](http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Sugar%20Annual_Beijing_China%20-%20Peoples%20Republic%20of_4-15-2011.pdf).

WIPO (2010), *World Intellectual Property Indicators 2010*. Viewed at: [http://www.wipo.int/export/sites/www/ipstats/en/statistics/patents/pdf/941\\_2010.pdf](http://www.wipo.int/export/sites/www/ipstats/en/statistics/patents/pdf/941_2010.pdf).

World Bank (2007), *China: Innovations in Agricultural Insurance: Promoting Access to Agricultural Insurance for Small Farmers*, May. Viewed at: [http://www.globalagrisk.com/Pubs/2007\\_WB\\_ChinaAgInsurance\\_may.pdf](http://www.globalagrisk.com/Pubs/2007_WB_ChinaAgInsurance_may.pdf).

World Bank (2012), *China 2030: Building a Modern, Harmonious, and Creative High-Income Society*. Viewed at: [http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2012/02/28/000356161\\_20120228001303/Rendered/PDF/671790WP0P127500China020300complete.pdf](http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2012/02/28/000356161_20120228001303/Rendered/PDF/671790WP0P127500China020300complete.pdf).

WTO (2006), *Trade Policy Review: China*, Geneva.

WTO (2008), *Trade Policy Review: China*, Geneva.

WTO (2010), *Trade Policy Review: China*, Geneva.

Xiaochen Wu (2008), "Overview of China's 10 Years of Antidumping Law and Practice", in *Global Trade and Customs Journal*, vol. 3, Issue 7/8 (Kluwer).

Xiaochen Wu (2009), *Anti-dumping Law and Practice of China*, Kluwer Law International, the Netherlands.

Yang, F. (2002), *Introduction of Chinese Government*, Peking University Press, Beijing.

Yu H, and Y. Yu (2007), *Fishing capacity management in China: Theoretic and practical perspectives*, *Marine Policy* 23 (2008) 351-359. Viewed at: <http://www.sciencedirect.com> [November 2011].

Zhang X, J. Yang and W. Wang (2010), *China Has Reached the Lewis Turning Point*, IFPRI Discussion Paper 000977, May, Washington DC.

Zhou, Y. (2007), *Managing fishing capacity and eliminate IUU fishing in China*, Shanghai Fisheries University.

**APPENDIX TABLES**



**Table A1.1**  
**Merchandise exports by group of products, 2007-11**  
 (US\$ billion and %)

	2007	2008	2009	2010	2011
Total exports (US\$ billion)	1,220.1	1,430.7	1,201.6	1,577.8	1,898.6
	(% of total)				
Exports under processing trade	50.6	47.2	48.8	46.9	44.0
Total primary products	6.7	6.8	6.3	6.3	6.5
Agriculture	3.2	3.0	3.4	3.3	3.4
Food	2.7	2.5	2.9	2.8	2.9
Agricultural raw material	0.5	0.4	0.5	0.5	0.6
Mining	3.5	3.9	2.9	3.0	3.1
Ores and other minerals	0.2	0.3	0.2	0.2	0.2
Non-ferrous metals	1.6	1.4	1.0	1.1	1.2
Fuels	1.7	2.2	1.7	1.7	1.7
Manufactures	93.1	93.1	93.6	93.6	93.3
Iron and steel	4.2	5.0	2.0	2.5	2.9
Chemicals	4.9	5.5	5.2	5.5	6.0
Other semi-manufactures	7.7	7.4	7.4	7.3	7.7
Machinery and transport equipment	47.4	47.1	49.2	49.5	47.5
Power generating machines	0.9	1.2	1.3	1.2	1.3
Other non-electrical machinery	5.6	6.4	6.0	5.9	6.2
Office machines & telecommunication equipment	28.5	26.7	28.8	28.5	26.2
7522 Data processing machines, with at least processing, input and output units	5.5	5.2	6.1	6.4	5.8
7643 Radio or television transmission apparatus	3.0	2.7	3.3	3.0	3.3
7649 Parts and accessories for apparatus of division 76	3.0	2.9	2.9	3.0	2.9
7763 Diodes, transistors, etc.	0.7	1.1	1.2	1.9	1.8
7764 Electronic integrated circuits and microassemblies	2.0	1.8	2.0	1.9	1.8
7599 Parts and accessories of 751.1, 751.2, 751.9 and 752	2.7	2.2	2.2	2.0	1.6
7611 Colour television receivers	1.5	1.3	1.4	1.4	1.2
7638 Sound/video recording/reproducing apparatus	1.7	1.6	1.8	1.3	1.1
7513 Photo copying apparatus with optical system, thermo-copying	1.0	0.9	0.9	1.0	0.9
7523 Digital processing units containing: storage, input or output units	0.6	0.8	1.0	1.1	0.9
Other electrical machines	7.5	7.5	7.7	7.9	7.7
7712 Other electric power machinery; parts of 771	1.0	1.0	1.0	1.1	1.0
Automotive products	1.9	2.0	1.7	1.8	2.0
7843 Other motor vehicle parts and accessories of 722, 781 to 783	1.0	1.0	1.0	1.1	1.1
Other transport equipment	3.0	3.3	3.7	4.3	4.3
7932 Ships, boats, etc. (excl. pleasure craft, tugs, etc.)	0.9	1.2	2.1	2.3	2.0
Textiles	4.6	4.6	5.0	4.9	5.0
Clothing	9.5	8.4	8.9	8.2	8.1
8453 Jerseys, pullovers, cardigans, etc., knitted/crocheted	1.3	1.1	1.2	1.1	1.1
8442 Suits, ensembles, jackets, dresses, etc.	0.9	0.7	0.9	0.9	1.0
Other consumer goods	14.9	15.0	15.9	15.7	16.0
8719 Liquid crystal devices, n.e.s.; lasers (excl. laser diodes)	1.7	1.6	1.7	1.8	1.7
8211 Seats (excl. of 872.4), and parts	0.8	0.9	1.0	0.9	0.9
8513 Footwear, n.e.s., rubber or plastic soles and uppers	0.6	0.7	0.9	0.9	0.9
8973 Jewellery of gold, silver or platinum metals (except watches)	0.2	0.2	0.2	0.5	0.9
Other	0.2	0.1	0.1	0.1	0.1

Source: UNSD, Comtrade database (SITC Rev.3); and General Administration of Customs (2011), *China's Customs Statistics: Monthly Exports & Imports*, 12, Series No. 268.

**Table AI.2**  
**Merchandise imports by group of products, 2007-11**  
(US\$ billion and %)

	2007	2008	2009	2010	2011
Total imports (US\$ billion)	956.1	1,132.6	1,005.6	1,396.0	1,743.5
	(% of total)				
Imports under processing trade	38.5	33.4	32.1	29.9	26.9
Total primary products	28.9	34.8	32.5	34.6	37.9
Agriculture	6.8	7.7	7.6	7.8	8.3
Food	3.4	4.4	4.5	4.3	4.3
2222 Soya beans	1.2	1.9	1.9	1.8	1.7
Agricultural raw material	3.4	3.3	3.1	3.5	4.0
Mining	22.0	27.2	24.9	26.9	29.6
Ores and other minerals	7.6	9.4	8.8	9.8	10.6
2815 Iron ores and concentrates, not agglomerated	3.2	5.0	4.7	5.4	..
2882 Other non-ferrous base metal waste and scrap, n.e.s.	0.9	0.8	0.9	1.2	..
2831 Copper ores and concentrates	0.9	0.9	0.8	0.9	0.9
Non-ferrous metals	3.4	2.8	3.8	3.5	3.2
6821 Copper anodes; alloys; unwrought	1.2	1.0	1.7	1.8	..
Fuels	11.0	14.9	12.3	13.5	15.8
3330 Crude oils of petroleum and bituminous minerals	8.4	11.4	8.9	9.7	..
3212 Other coal, whether or pulverized, not agglomerated	0.1	0.2	0.8	1.1	..
Manufactures	70.9	64.8	67.1	64.1	..
Iron and steel	2.5	2.4	2.6	1.8	1.6
Chemicals	11.2	10.5	11.1	10.7	10.4
Other semi-manufactures	3.1	2.8	2.8	2.8	2.8
Machinery and transport equipment	43.2	39.0	40.6	39.4	36.2
Power generating machines	1.0	1.0	1.1	0.9	..
Other non-electrical machinery	7.5	7.3	7.0	7.3	..
7284 Machinery and appliances for particular industries, n.e.s.	1.6	1.4	1.2	1.6	..
Office machines & telecommunication equipment	23.7	20.5	21.3	19.9	..
7764 Electronic integrated circuits and microassemblies	13.4	11.4	12.0	11.3	..
7649 Parts and accessories for apparatus of division 76	2.6	2.2	2.3	1.9	..
7527 Storage units for data processing	1.6	1.5	1.7	1.5	..
7599 Parts and accessories of 751.1, 751.2, 751.9 and 752	1.8	1.4	1.4	1.4	..
7763 Diodes, transistors, etc.	1.2	1.1	1.1	1.2	..
Other electrical machines	6.6	6.0	6.1	5.7	..
7722 Printed circuits	1.1	1.0	0.9	0.9	..
7725 Switches, relays, fuses etc. for a voltage not exceeding 1,000 V	1.0	0.9	0.9	0.9	..
7712 Other electric power machinery; parts of 771	0.8	0.7	0.8	0.8	..
Automotive products	2.5	2.6	3.1	3.8	..
7812 Motor vehicles for the transport of persons, n.e.s.	1.0	1.2	1.4	2.1	..
7843 Other motor vehicle parts and accessories of 722, 781 to 783	1.1	1.0	1.2	1.3	..
Other transport equipment	1.8	1.7	2.1	1.8	..
Textiles	1.7	1.4	1.5	1.3	1.1
Clothing	0.2	0.2	0.2	0.2	0.2
Other consumer goods	8.9	8.4	8.3	7.9	..
8719 Liquid crystal devices, n.e.s.; lasers (excl. laser diodes)	4.7	4.3	3.8	3.7	..
Other	0.3	0.4	0.3	1.3	..

.. Not available.

Source: UNSD, Comtrade database (SITC Rev.3); and General Administration of Customs (2011), *China's Customs Statistics: Monthly Exports & Imports*, 12, Series No. 268.

**Table A1.3**  
**Merchandise exports by destination, 2007-11**  
 (US\$ billion and %)

	2007	2008	2009	2010	2011
Total exports (US\$ billion)	1,220.1	1,430.7	1,201.6	1,577.8	1,898.6
			(% of total)		
America	24.9	24.2	24.6	25.2	24.9
United States	19.1	17.7	18.4	18.0	17.1
Other America	5.8	6.5	6.2	7.2	7.8
Brazil	0.9	1.3	1.2	1.6	1.7
Canada	1.6	1.5	1.5	1.4	1.3
Mexico	1.0	1.0	1.0	1.1	1.3
Europe	21.6	21.9	21.0	21.0	20.1
EU(27)	20.1	20.5	19.7	19.7	18.8
Germany	4.0	4.1	4.2	4.3	4.0
The Netherlands	3.4	3.2	3.1	3.2	3.1
United Kingdom	2.6	2.5	2.6	2.5	2.3
Italy	1.7	1.9	1.7	2.0	1.8
France	1.7	1.6	1.8	1.8	1.6
EFTA	0.5	0.5	0.4	0.4	0.4
Other Europe	1.0	0.9	0.8	0.9	1.0
Commonwealth of Independent States (CIS)	3.9	4.5	3.2	3.4	3.5
Russian Federation	2.3	2.3	1.5	1.9	2.0
Africa	3.1	3.6	4.0	3.8	3.9
Middle East	3.6	4.1	4.3	4.0	4.2
United Arab Emirates	1.4	1.7	1.6	1.3	1.4
Asia	42.8	41.7	43.0	42.6	43.5
Japan	8.4	8.1	8.1	7.7	7.8
Six East Asian Traders	26.6	25.2	25.2	24.9	25.0
Hong Kong, China	15.1	13.3	13.8	13.8	14.1
Korea, Rep. of	4.6	5.2	4.5	4.4	4.4
Singapore	2.5	2.3	2.5	2.1	1.9
Chinese Taipei	1.9	1.8	1.7	1.9	1.8
Malaysia	1.5	1.5	1.6	1.5	1.5
Thailand	1.0	1.1	1.1	1.3	1.4
Other Asia	7.9	8.4	9.6	10.1	10.6
India	2.0	2.2	2.5	2.6	2.7
Australia	1.5	1.6	1.7	1.7	1.8
Indonesia	1.0	1.2	1.2	1.4	1.5
Viet Nam	1.0	1.1	1.4	1.5	1.5
<i>Memorandum:</i>					
APEC	63.7	61.0	61.6	61.2	61.3
ASEAN	7.8	8.0	8.8	8.8	9.0

Source: UNSD, Comtrade database (SITC Rev.3); and General Administration of Customs (2011), *China's Customs Statistics: Monthly Exports & Imports*, 12, Series No. 268.

**Table AI.4**  
**Merchandise imports by origin, 2007-11**  
(US\$ billion and %)

	2007	2008	2009	2010	2011
Total imports (US\$ billion)	956.1	1,132.6	1,005.6	1,396.0	1,743.5
			(% of total)		
America	13.8	14.6	15.3	15.0	15.2
United States	7.3	7.2	7.7	7.4	7.0
Other America	6.5	7.4	7.6	7.6	8.1
Brazil	1.9	2.6	2.8	2.7	3.0
Chile	1.1	1.0	1.3	1.3	1.2
Canada	1.1	1.1	1.2	1.1	1.3
Europe	12.5	12.7	13.9	13.8	14.1
EU(27)	11.6	11.7	12.7	12.1	12.1
Germany	4.7	4.9	5.5	5.3	5.3
France	1.4	1.4	1.3	1.2	1.3
EFTA	0.8	0.8	1.0	1.5	1.8
Switzerland	0.6	0.7	0.7	1.2	1.6
Other Europe	0.2	0.2	0.2	0.3	0.2
Commonwealth of Independent States (CIS)	2.9	3.0	3.1	3.0	3.8
Russian Federation	2.1	2.1	2.1	1.9	2.3
Africa	3.8	4.9	4.3	4.8	5.3
South Africa	0.7	0.8	0.9	1.1	1.8
Angola	1.3	2.0	1.5	1.6	1.4
Middle East	5.0	7.1	5.6	6.2	7.7
Kingdom of Saudi Arabia	1.8	2.7	2.3	2.4	2.8
Iran Islamic Rep.	1.4	1.7	1.3	1.3	1.7
Asia	53.0	49.5	49.2	49.5	46.6
Japan	14.0	13.3	13.0	12.7	11.2
Six East Asian Traders	30.0	27.0	27.1	26.8	23.9
Korea, Rep. of	10.9	9.9	10.2	9.9	9.3
Chinese Taipei	10.6	9.1	8.5	8.3	7.2
Malaysia	3.0	2.8	3.2	3.6	3.6
Thailand	2.4	2.3	2.5	2.4	2.2
Singapore	1.8	1.8	1.8	1.8	1.6
Other Asia	9.0	9.1	9.1	10.0	11.5
Australia	2.7	3.3	3.9	4.4	4.7
Indonesia	1.3	1.3	1.4	1.5	1.8
India	1.5	1.8	1.4	1.5	1.3
Philippines	2.4	1.7	1.2	1.2	1.0
Other	9.0	8.2	8.6	7.8	7.4
Free zones	9.0	8.2	8.6	7.7	7.0
<i>Memorandum:</i>					
APEC	72.3	67.5	69.0	67.6	64.3
ASEAN	11.3	10.3	10.6	11.1	11.1

Source: UNSD, Comtrade database (SITC Rev.3); and General Administration of Customs (2011), *China's Customs Statistics: Monthly Exports & Imports*, 12, Series No. 268.



**Table A1.5**  
**Trade in services, 2007-10**  
 (US\$ billion and %)

	2007	2008	2009	2010
Exports (US\$ billion)	122.2	147.1	129.5	171.2
		(% of total exports)		
Transportation	25.6	26.1	18.2	20.0
Travel	30.4	27.7	30.7	26.8
Communication	1.0	1.1	0.9	0.7
Construction	4.4	7.0	7.3	8.5
Insurance	0.7	1.0	1.2	1.0
Financial	0.2	0.2	0.3	0.8
Computer and information	3.5	4.3	5.0	5.4
Royalties and licences fees	0.2	0.4	0.3	0.5
Research and development	9.5	12.3	14.4	13.3
Advertising and public opinion polling	1.6	1.5	1.8	1.7
Audio visual and related	0.2	0.3	0.1	0.1
Other business	22.0	17.7	19.1	20.8
Government	0.5	0.5	0.7	0.6
Imports (US\$ billion)	130.1	158.9	158.9	193.4
		(% of total imports)		
Transportation	33.3	31.7	29.3	32.7
Travel	22.9	22.8	27.5	28.4
Communication	0.8	0.9	0.8	0.6
Construction	2.2	2.8	3.7	2.6
Insurance	8.2	8.0	7.1	8.2
Financial	0.5	0.4	0.4	0.7
Computer and information	1.7	2.0	2.0	1.6
Royalties and licences fees	6.3	6.5	7.0	6.7
Research and development	8.4	8.5	8.4	7.8
Advertising and public opinion polling	1.0	1.2	1.3	1.0
Audio visual and related	0.2	0.2	0.2	0.2
Other business	14.0	14.5	11.8	8.9
Government	0.7	0.6	0.5	0.6

Source: State Administration of Foreign exchange online information. Viewed at: <http://www.safe.gov.cn> [13 March 2012].

**Table AII.1**  
**China's major trade-related laws and regulations, September 2011**

Legislation	Adoption of latest amendment	Entry into effect	Date of first adoption
<b>Foreign trade, exchange restrictions, and foreign investment</b>			
Foreign Trade Law (G/LIC/N/1/CHN/4)	6 Apr 2004	1 July 2004	12 May 1994
Regulations on Origin of Import and Export Goods		1 Jan 2005	18 Aug 2004
Regulation on the Administration of the Import and Export of Goods (G/LIC/N/1/CHN/4)		1 Jan 2002	31 Oct 2001
Rules for the Registration of Foreign Trade Operators		1 July 2004	19 June 2004
Rules on Investigations of Foreign Trade Barriers (Replaced 2002 Provisional Rules on Investigations of Foreign Trade Barriers)		1 Mar 2005	21 Jan 2005
Regulations on the Export Control of Arms Products	15 Oct 2002 <sup>a</sup>	15 Nov 2002	22 Oct 1997 <sup>a</sup>
Regulations on the Export Control of Nuclear Products	9 Nov 2006	9 Nov 2006	1 Aug 1997
Regulations on the Export Control of Dual-purpose Biological Products and Relevant Equipment and Technology		1 Dec 2002	14 Oct 2002 <sup>a</sup>
Regulations on the Export Control of Dual-purpose Nuclear Products and Related Technologies	26 Jan 2007 <sup>a</sup>	26 Jan 2007	1 Jun 1998
Regulations on the Export Control of Missiles and Related Items and Technologies		22 Aug 2002	22 Aug 2002 <sup>a</sup>
Regulations on the Export Control of Certain Chemicals and Related Equipment and Technologies		19 Nov 2002	18 Oct 2002 <sup>a</sup>
Regulations on Foreign Exchange Control	1 Aug 2008	5 Aug 2008	8 Jan 1996
Decision of the Standing Committee of the NPC on Punishing Crimes of Fraudulently Purchasing, Evading and Illegally Trading in Foreign Exchange		29 Dec 1998	29 Dec 1998
Law on Chinese-Foreign Equity Joint-Ventures	15 Mar 2001	15 Mar 2001	1 July 1979
Regulations for the Implementation of the Law on Chinese-Foreign Equity Joint-Ventures	8 Jan 2011	8 Jan 2011	20 Sep 1983 <sup>a</sup>
Law on Chinese-Foreign Contractual Joint-Ventures	31 Oct 2000	31 Oct 2000	13 Apr 1988
Regulations for the Implementation of the Law on Chinese-Foreign Contractual Joint-Ventures		4 Sept 1995	7 Aug 1995
Law on Foreign-Capital Enterprise	31 Oct 2000	31 Oct 2000	12 Apr 1986
Regulations for the Implementation of the Law on Foreign-Capital Enterprises	12 Apr 2001 <sup>a</sup>	12 Apr 2001	28 Oct 1990
Law on the Protection of Investment of Taiwan Compatriots		5 Mar 1994	5 Mar 1994
Provisions on Guiding Foreign Investment Direction		1 Apr 2002	11 Feb 2002 <sup>a</sup>
Measures for the Administration of Partnership Enterprise Registration	9 May 2007	1 June 2007	19 Nov 1997 <sup>a</sup>
Measures for the Administration on the Establishment of Partnership Business by Foreign Enterprises or Individuals in China		1 Mar 2010	19 Aug 2009
<b>Customs- and tariff-related regulations</b>			
Customs Law	8 July 2000	1 Jan 2001	22 Jan 1987
Regulations on Import and Export Tariff (G/VAL/N/1/CHN/4)	8 Jan 2011	8 Jan 2011	12 Sept 1987
Anti-dumping Regulations (G/ADP/N/1/CHN/2/Suppl.3)	31 Mar 2004 <sup>a</sup>	1 June 2004	31 Oct 2001
Regulations on Countervailing Measures (G/SCM/N/1/CHN/1/Suppl.3)	31 Mar 2004 <sup>a</sup>	1 June 2004	31 Oct 2001
Safeguard Regulations (G/SG/N/1/CHN/2/Suppl.3)	31 Mar 2004 <sup>a</sup>	1 June 2004	31 Oct 2001
Regulations on Customs Protection of Intellectual Property	17 Mar 2010	1 Apr 2010	5 July 1995 <sup>a</sup>
Regulations on Customs Statistics		1 Mar 2006	25 Dec 2005 <sup>a</sup>
Rules on Responding to Anti-dumping Cases on Export Products		14 Aug 2006	17 May 2006
<b>Standards and technical regulations</b>			
Law on Import and Export Commodity Inspection	28 Apr 2002	1 Oct 2002	21 Feb 1989
Regulations for Implementation of Import and Export Commodity Inspection	10 Aug 2005	1 Dec 2005	7 Oct 1992
Standardization Law		1 Apr 1989	29 Dec 1988

Table AII.1 (cont'd)

Legislation	Adoption of latest amendment	Entry into effect	Date of first adoption
Regulations for the Implementation of the Standardization Law		6 Apr 1990	6 Apr 1990 <sup>a</sup>
Law on the Entry and Exit Animal and Plant Quarantine	27 Aug 2009	27 Aug 2009	30 Oct 1991
Regulations for Implementation of the Law on the Entry and Exit Animal and Plant Quarantine		1 Jan 1997	2 Dec 1996 <sup>a</sup>
Food Safety Law		1 June 2009	28 Feb 2009
Law on Product Quality	8 July 2000	1 Sept 2000	22 Feb 1993
Rules for Compulsory Product Certification	26 May 2009	1 Sept 2009	21 Nov 2001
Rules on Inspection and Quarantine of Entry and Exit Aquatic Products	10 Mar 2010	1 June 2011	18 Oct 2002
Frontier Health and Quarantine Law	29 Dec 2007	29 Dec 2007	2 Dec 1986
Regulations on Authentication and Approval		1 Nov 2003	20 Aug 2003
Regulations for Safety Control of Dangerous Chemical Products	16 Feb 2011	1 Dec 2011	9 Jan 2002
Rules on Imposing Administrative Penalties related to Certification and Accreditation		9 Dec 2003	9 Dec 2003 <sup>a</sup>
Special Regulations of the State Council on Strengthening the Supervision and Administration the Safety of Food and Other Products		26 July 2007	25 July 2007
Agricultural Products Quality Safety Law		1 Nov 2006	29 Apr 2006
Regulations for the Implementation of Food Safety Law		20 July 2009	8 July 2009
<b>Intellectual property rights</b>			
Copyright Law (IP/N/1/CHN/C/1)	27 Oct 2001	27 Oct 2001	7 Sept 1990
Regulations for the Implementation of the Copyright Law	29 Dec 2010	8 Jan 2011	24 May 1991
Trademark Law (IP/N/1/CHN/T/1)	27 Oct 2001	1 Dec 2001	23 Aug 1982
Regulations for the Implementation of the Trademark Law (IP/N/1/CHN/T/2)		15 Sept 2002	3 Aug 2002 <sup>a</sup>
Patent Law (IP/N/1/CHN/P/2)	27 Dec 2008	1 Oct 2009	12 Mar 1984
Regulations for Implementation of the Patent Law	30 Dec 2009	1 Feb 2010	19 Jan 1985
Regulations on Computer Software Protection	29 Dec 2010	8 Jan 2011	4 Jun 1991
Regulations on the Protection of Layout-Design of Integrated Circuits (IP/N/1/CHN/L/1/Rev.1)		1 Oct 2001	28 Mar 2001
Rules for Implementing the Regulations on the Protection of Layout-Design of Integrated Circuits (IP/N/1/CHN/L/2)		1 Oct 2001	18 Sept 2001 <sup>a</sup>
Regulations on Protection of New Varieties of Plants (IP/N/1/CHN/P/1)		1 Oct 1997	20 Mar 1997 <sup>a</sup>
Regulations on the Administration of Technology Import and Export	29 Dec 2010	8 Jan 2011	31 Oct 2001
Regulation on Protection of Right to Network Distribution of Information		1 July 2006	10 May 2006
Interim measures on Payment by Radio and TV Station for Broadcasting Audio Products	29 Dec 2010	8 Jan 2011	6 May 2009
<b>Tax regime</b>			
Law on the Administration of Tax Collection	28 Apr 2001	1 May 2001	4 Sept 1992
Decision of the Standing Committee of the NPC Regarding the Application of Provisional Regulations on such Taxes as Value-added Tax, Consumption Tax and Business Tax to Enterprises with Foreign Investment and Foreign Enterprises		29 Dec 1993	29 Dec 1993
Interim Regulations on Value-added Tax	5 Nov 2008	8 Jan 2009	26 Nov 1993
Interim Regulations on Consumption Tax	5 Nov 2008	1 Jan 2009	26 Nov 1993
Interim Regulations on Business Tax	5 Nov 2008	1 Jan 2009	26 Nov 1993
Interim Regulations on Land Appreciation Tax	29 Dec 2010	8 Jan 2011	26 Nov 1993
Interim Regulations on Resources Tax		1 Jan 1994	26 Nov 1993
Enterprise Income Tax Law		1 Jan 2008	16 Mar 2007
Income Tax Law for Individuals	30 Jun 2011	1 Sept 2011	10 Sept 1980
The Implementing Regulations for the Enterprise Income Tax Law		1 Jan 2008	28 Nov 2007

Table AII.1 (cont'd)

Legislation	Adoption of latest amendment	Entry into effect	Date of first adoption
<b>Sectoral laws</b>			
<b>Agriculture</b>			
Agricultural Law	28 Dec 2002	1 Mar 2003	2 July 1993
Law on Land Contract in Rural Areas	27 Aug 2009	27 Aug 2009	29 Aug 2002
Land Administration Law	28 Aug 2004	28 Aug 2004	25 June 1986
Law on the Popularization of Agricultural Technology		2 July 1993	2 July 1993
Grassland Law	28 Dec 2002	1 Mar 2003	18 June 1985
Seed Law	28 Aug 2004	28 Aug 2004	8 July 2000
Fisheries Law	28 Aug 2004	28 Aug 2004	20 Jan 1986
Forestry Law	27 Aug 2009	27 Aug 2009	20 Sept 1984
Law on Prompting Agricultural Mechanization		1 Nov 2004	25 June 2004
Regulations on Administration of Grain Distribution		26 May 2004	19 May 2004
Regulations on Administration of Central Grain Reserves	29 Dec 2010	8 Jan 2011	6 Aug 2003
Measures for the Examination and Approval of the Entry-Exit and Foreign-related Joint Research and Utilization of Livestock and Poultry Genetic Resources		1 Oct 2008	20 Aug 2008
<b>Manufacturing</b>			
Law on Tobacco Monopoly	27 Aug 2009	27 Aug 2009	29 June 1991
Pharmaceutical Administration Law	28 Feb 2001	1 Dec 2001	20 Sept 1984
Steel Industry Development Policy		8 July 2005	8 July 2005 <sup>a</sup>
Industrial Policy for the Automobile Industry	15 Aug 2009 <sup>a</sup>	1 Sept 2009	21 May 2004
Automobile Trade Policy		10 Aug 2005	10 Aug 2005 <sup>a</sup>
Administrative Rules on Recalls of Defective Automobile Products		1 Oct 2004	12 Mar 2004
<b>Energy, utilities, and natural resources</b>			
Mineral Resources Law	29 Aug 1996	1 Jan 1997	19 Mar 1986
Water Law	29 Aug 2002	1 Oct 2002	21 Jan 1988
Regulations on Exploitation of Offshore Petroleum Resources in Cooperation with Foreign Enterprises	29 Dec 2010	8 Jan 2011	12 Jan 1982
Measures for Administration of the Market of Processed Oil		1 Jan 2007	16 Nov 2006
Law on the Administration of the Use of Sea Areas		1 Jan 2002	27 Oct 2001
Law on Water and Soil Conservation	25 Dec 2010	1 Mar 2011	29 June 1991
Law on Coal Industry	22 Apr 2011	1 July 2011	29 Aug 1996
Electric Power Law	27 Aug 2009	27 Aug 2009	28 Dec 1995
Regulations for Administration of Electricity Industry		1 May 2005	2 Feb 2005
Laws on Energy Conservation	28 Oct 2007	1 April 2008	1 Nov 1997
Regulations on Exploitation of On-shore Petroleum Resources in Cooperation with Foreign Enterprises	18 Sep 2007 <sup>a</sup>	18 Sep 2007	7 Oct 1993 <sup>a</sup>
<b>Financial services</b>			
Law on the People's Bank of China	27 Dec 2003	1 Feb 2004	18 Mar 1995
Law on Commercial Banks	27 Dec 2003	1 Feb 2004	10 May 1995
Law on Regulation of and Supervision over the Banking Industry	31 Oct 2006	1 Jan 2007	27 Dec 2003
Law on Funds for Investment in Securities		1 June 2004	28 Oct 2003
Regulations on Closure of Financial Institutions		15 Dec 2001	14 Nov 2001
Regulations on Administration of Foreign-funded Banks		11 Dec 2006	8 Nov 2006
Insurance Law	28 Feb 2009	1 Oct 2009	30 June 1995
Regulations on Administration of Foreign-funded Insurance Companies		1 Feb 2002	5 Dec 2001
Trust Law		1 Oct 2001	28 Apr 2001
Securities Law	27 Oct 2005	1 Jan 2006	29 Dec 1998

Table AII.1 (cont'd)

Legislation	Adoption of latest amendment	Entry into effect	Date of first adoption
Regulations on the Administration and Supervision of Securities Firms		1 June 2008	23 April 2008
Regulations on the Risk Disposal of Securities Firms		23 April 2008	23 April 2008
Rules on the Administration of Securities Investment Fund Management Companies		1 Oct 2004	12 Aug 2004
Rules for the Establishment of Foreign-shared Securities Companies	29 Nov 2007	1 Aug 2008	1 June 2002 <sup>a</sup>
Provisions of the State Council on Foreign Capital Stocks Listed in China by Joint Stock Limited Companies		25 Dec 1995	2 Nov 1995
Auction Law	28 Aug 2004	28 Aug 2004	5 July 1996
Guaranty Law		1 Oct 1995	30 June 1995
Regulation on the Administration of Futures Trading		15 April 2007	7 Feb 2007
Decision of the Standing Committee of the NPC on Punishment of Crimes of Disrupting Financial Order (Refer also to the 1997 Criminal Law Appendix II)		30 June 1995	30 June 1995
Law on Lawyers	28 Oct 2007	1 June 2008	15 May 1996
<b>Other services</b>			
Accounting Law	31 Oct 1999	1 July 2000	21 Jan 1985
Law on Certified Public Accountants		1 Jan 1994	31 Oct 1993
Regulations on Telecommunications		25 Sept 2000	20 Sept 2000
Regulations on Foreign Investment in Telecommunications Enterprises	10 Sept 2008 <sup>a</sup>	10 Sept 2008	5 Dec 2001
Highway Law	27 Aug 2009	27 Aug 2009	3 July 1997
Regulations on Road Transportation		1 July 2004	14 Apr 2004
Provisions on the Administration of Road Transport Services with Foreign Investment	28 Dec 2004	20 Nov 2001	20 Nov 2001 <sup>a</sup>
Railway Law	27 Aug 2009	27 Aug 2009	7 Sept 1990
Maritime Code		1 July 1993	7 Nov 1992
Regulations on International Maritime Transportation		1 Jan 2002	5 Dec 2001
Implementing Rules of Regulations on International Maritime Transportation		1 Mar 2003	25 Dec 2002
Special Maritime Procedure Law		1 July 2000	25 Dec 1999
Provisions on Administration of Foreign Investment in International Maritime Transportation		1 June 2004	25 Feb 2004 <sup>a</sup>
Rules on Administration of Pilotage		1 Jan 2002	12 Oct 2001
Port Law		1 Jan 2004	28 June 2003
Rules on Administration of Port Operation	29 Oct 2009	1 Mar 2010	26 Dec 2003
Rules on Port Facility Security	30 Nov 2007	1 Mar 2008	24 Nov 2003 <sup>a</sup>
Civil Aviation Law	27 Aug 2009	27 Aug 2009	30 Oct 1995
Regulations of Restriction for Universal Aviation		1 May 2003	10 Jan 2003 <sup>a</sup>
Postal Law	24 Apr 2009	1 Oct 2009	2 Dec 1986
Law on Licensed Doctors	27 Aug 2009	27 Aug 2009	26 June 1998
Higher Education Law		1 Jan 1999	29 Aug 1998
Education Law	27 Aug 2009	27 Aug 2009	18 Mar 1995
Compulsory Education Law	29 June 2006	1 Sept 2006	12 Apr 1986
Vocational Education Law		1 Sept 1996	15 May 1996
Law on Promotion of Privately-run Schools		1 Sept 2003	28 Dec 2002
Regulations on Sino-Foreign Cooperative Education		1 Sept 2003	19 Feb 2003
Construction Law	22 Apr 2011	1 July 2011	1 Nov 1997
Rules on Foreign-invested Construction Design Enterprises		1 Dec 2002	17 Sept 2002
Law on Urban Real Estate	27 Aug 2009	27 Aug 2009	5 July 1994
Rules on Construction Enterprises with Foreign Investment		1 Dec 2002	17 Sept 2002
Regulations on Property Management	26 Aug 2007 <sup>a</sup>	1 Oct 2007	28 May 2003

Table AII.1 (cont'd)

Legislation	Adoption of latest amendment	Entry into effect	Date of first adoption
Regulations on Contracting Foreign Engineering Projects		1 Sept 2008	7 May 2008
Advertisement Law		1 Feb 1995	27 Oct 1994
Rules on Administration of Foreign-invested Advertising Enterprises	22 Aug 2008 <sup>a</sup>	1 Oct 2008	2 Mar 2004 <sup>a</sup>
Regulations on Travel Agencies		1 May 2009	21 Jan 2009
Regulations on Administration of Tourist Guides		1 Oct 1999	14 May 1999 <sup>a</sup>
Law on Entry and Exit of Aliens		1 Feb 1986	22 Nov 1985
Regulations on Administration of Foreign Law Firms' Representative Offices in China		1 Jan 2002	19 Dec 2001
Provision of the Ministry of Justice on the implementation of Regulations on Administration of Foreign Law Firms' Representative Offices in China	22 June 2004	2 Sep 2004	25 June 2002
Regulations on the Administration of Commercial Franchise		1 May 2007	31 Jan 2007
<b>Others</b>			
Constitution	14 Mar 2004	14 Mar 2004	4 Dec 1982
Organic Law of the State Council		10 Dec 1982	10 Dec 1982
Organic Law of the Local People's Congress and Local People's Government at Different Levels	27 Oct 2004	27 Oct 2004	1 July 1979
Criminal Procedure Law	17 Mar 1996	1 Jan 1997	1 July 1979
Civil Procedure Law	28 Oct 2007	1 April 2008	9 Apr 1991
Administrative Procedure Law		1 Oct 1990	4 Apr 1989
Law on the Procedure of the Conclusion of Treaties		28 Dec 1990	28 Dec 1990
Legislation Law		1 July 2000	15 Mar 2000
Regulations on Procedures for the Formulation of Administrative Regulations		1 Jan 2002	16 Nov 2001 <sup>a</sup>
Employment Promotion Law		1 Jan 2008	30 Aug 2007
Anti-Monopoly Law		1 Aug 2008	30 Aug 2007
Provisions on Thresholds for Prior Notification of Concentration of Undertakings		3 Aug 2008	1 Aug 2008
Labour Contract Law		1 Jan 2008	29 Jun 2007
Property Law		1 Oct 2007	16 Mar 2007
Provisions on the Administrative Punishment of Price-related Violations	29 Nov 2010	4 Dec 2010	10 Jul 1999
Regulation on Disclosure of Government Information		1 May 2008	17 Jan 2007
Regulations on Procedures for the Formulation of Rules		1 Jan 2002	16 Nov 2001 <sup>a</sup>
Regulations on Submission of Regulations and Rules for the Record		1 Jan 2002	14 Dec 2001 <sup>a</sup>
Decision of the Third Session of the Sixth National People's Congress on Authorizing the State Council to Formulate Interim Provisions or Regulations Concerning the Reform of the Economic Structure and the Open Policy		10 Apr 1985	10 Apr 1985
Law Countering Unfair Competition		1 Dec 1993	2 Sept 1993
Provisions of the State Council on Prohibiting of Imposition of Regional Blockage on Market Economic Activities	8 Jan 2011	8 Jan 2011	21 Apr 2001 <sup>a</sup>
Administrative Permission Law		1 July 2004	27 Aug 2003
Judges Law	30 June 2001	1 Jan 2002	28 Feb 1995
Labour Law	27 Aug 2009	27 Aug 2009	5 July 1994
Law on Administrative Reconsideration	27 Aug 2009	27 Aug 2009	29 Apr 1999
Company Law	27 Oct 2005	1 Jan 2006	29 Dec 1993
Pricing Law		1 May 1998	29 Dec 1997
Rules on Government Pricing		1 May 2006	17 Mar 2006 <sup>a</sup>
Provisions on Countering Price Monopoly		1 Feb 2011	29 Dec 2010 <sup>a</sup>
Regulations on the Administration of Company Registration	18 Dec 2005	1 Jan 2006	24 June 1994 <sup>a</sup>
Law on the Protection of Consumer Rights and Interests	27 Aug 2009	27 Aug 2009	31 Oct 1993

Table AII.1 (cont'd)

Legislation	Adoption of latest amendment	Entry into effect	Date of first adoption
Enterprise Bankruptcy Law		1 June 2007	27 Aug 2006
Law on Industrial Enterprises Owned by the Whole People	27 Aug 2009	27 Aug 2009	13 Apr 1988
Law on Individual Proprietorship Enterprises		1 Jan 2000	30 Aug 1999
Administrative Rules Governing the Registration of Individual Proprietorship Enterprises		13 Jan 2000	13 Jan 2000 <sup>a</sup>
Law on Partnership Enterprises	27 Aug 2006	1 June 2007	23 Feb 1997
Administrative Regulations Governing the Registration of Partnership Enterprises	9 May 2007 <sup>a</sup>	1 June 2007	19 Nov 1997 <sup>a</sup>
Law on Promotion of Small and Medium-Sized Enterprises		1 Jan 2003	29 June 2002
Provisions on the Merger and Division of Enterprises with Foreign Investment	22 Nov 2001 <sup>a</sup>	22 Nov 2001	23 Sept 1999 <sup>a</sup>
Law on Bid Invitation and Bidding		1 Jan 2000	30 Aug 1999
Rules for the Administration of Employment of Foreigners in China	1 Nov 2010	12 Nov 2010	22 Jan 1996
Administrative Regulations Governing The Registration of Legal Corporations	29 Dec 2010	8 Jan 2011	13 May 1988
Code of Corporate Governance for Listed Companies		7 Jan 2002	7 Jan 2002 <sup>a</sup>
Contract Law		1 Oct 1999	15 Mar 1999
Interim Regulations on Supervision and Management of Corporate State-owned Assets	29 Dec 2010	8 Jan 2011	13 May 2003
Provisional Measures on Transfer of State-Owned Property Rights in Enterprises		1 Feb 2004	31 Dec 2003 <sup>a</sup>
Government Procurement Law of China		1 Jan 2003	29 June 2002
Environmental Protection Law		26 Dec 1989	26 Dec 1989
Law on Evaluation of Environmental Effects		1 Sept 2003	28 Oct 2002
Marine Environment Protection Law	25 Dec 1999	1 Apr 2000	23 Aug 1982
Regulations on Administration of Collection and Utilization of Sewage Discharge Levies		1 July 2003	30 Jan 2002
Trade Union Law	27 Aug 2009	27 Aug 2009	28 June 1950

a Date of promulgation.

Source: Information provided by the Chinese authorities.

**Table AII.2**  
**Principal notifications under WTO Agreements, March 2012**

Agreement	Requirement/content	Document symbol and date of latest notification
<b>Agreement on Agriculture</b>		
Articles 10 and 18.2	Table ES.1 – Export subsidies	G/AG/N/CHN/20, 15/04/2010
Article 18.2	Table MA.2 – Tariffs and other quotas	G/AG/N/CHN/19, 15/04/2010
Article 18.2	Table MA.1 – Administration of tariff quotas	G/AG/N/CHN/2, 25/09/2003
Article 18.2	Table DS.1 and appropriate supporting tables – Domestic support	G/AG/N/CHN/21, 13/10/2011
<b>Article XXIV of GATT 1994</b>		
Article XXIV:7 of GATT 1994 and Article V: 7(a) of GATS	Free Trade Agreement between China and Costa Rica	WT/REG310/N/1 and S/C/N/618 28/02/2012
Article XXIV:7 of GATT 1994 and Article V: 7(a) of GATS	Free Trade Agreement between China and Peru	WT/REG281/N/1 and S/C/N/537 03/03/2010
Article XXIV:7 of GATT 1994 and Article V: 7(a) of GATS	Free Trade Agreement between China and New Zealand	WT/REG266/N/1 and S/C/N/491, 23/04/2009
Article XXIV:7 of GATT 1994 and Article V: 7(a) of GATS	Free Trade Agreement between China and Singapore	WT/REG262/N/1 and S/C/N/483, 04/03/2009
<b>Enabling clause</b>		
Enabling clause - lldcs	Duty-free treatment for LDCs	WT/COMTD/N/39, 18/10/2011 G/C/W/656/Rev.1 WT/COMTD/N/39/Add.1/Rev.1, 01/12/2011
Enabling clause - integration	Framework agreement on comprehensive economic cooperation between ASEAN and China China's accession to the Bangkok Agreement Amendment to the Bangkok Agreement	WT/COMTD/N/20/Add.1, 26/09/2005 WT/COMTD/N/19, 29/07/2004 WT/COMTD/N/22, 27/07/2007
<b>Agreement on Implementation of GATT Article VI of the GATT 1994 (Anti-dumping)</b>		
Article 5.8	Time-period for determination of negligible import volumes	G/ADP/N/100/CHN, 20/10/2004
Article 16.4	Semi-annual reports of anti-dumping actions (taken within the preceding six months)	G/ADP/N/216/CHN/Rev.1, 19/10/2011
Article 18.5, and Article 32.6 Agreement on Subsidies and Countervailing Measures	Decree of the Ministry of Commerce concerning Publication of Rules on Information Access and Information Disclosure in Industry Injury Investigations No. 19, 2006	G/ADP/N/1/CHN/2/Suppl.6, 19/10/2007
	Rules of the Supreme People's Court on Certain Issues Related to Application of Law in hearings of Antidumping Administrative Cases	G/ADP/N/1/CHN/2/Suppl.5, 11/01/2007
	Notification of the newly amended Foreign Trade Law	G/SCM/N/1/CHN/1/Suppl.4 G/ADP/N/1/CHN/2/Suppl.4 G/SG/N/1/CHN/2/Suppl.4, 01/12/2004
	Names of laws and regulations relevant to the Agreement	G/ADP/N/1/CHN/1, 31/05/2002
	Regulations on anti-dumping	G/ADP/N/1/CHN/2/Suppl.3, 20/10/2004
	Provisional rules on initiation of anti-dumping investigation	G/ADP/N/1/CHN/2/Suppl.1, 18/02/2003
	Rules on anti-dumping investigations and determinations of industry injury; rules on public hearings with regard to investigations of injury to industry	G/ADP/N/1/CHN/2/Suppl.2, 14/04/2003
Articles 16.5, and Article 25.12, Agreement on Subsidies and Countervailing Measures	Notification of competent authority	G/ADP/N/14/Add.22 G/SCM/N/18/Add.22, 10/10/2006

**Table AII.2 (cont'd)**



Agreement	Requirement/content	Document symbol and date of latest notification
<b>Agreement on Implementation of Article VII of the GATT 1994 (Customs valuation)</b>		
Article 22.2	Administrative measure regarding customs valuation	G/VAL/N/1/CHN/5, 11/04/2008
	Regulations on import and export duties	G/VAL/N/1/CHN/4, 07/06/2004
	Notification of the customs regulations regarding determination of customs value of royalties and licence fees related to imports	G/VAL/N/1/CHN/3, 24/09/2003
	Customs law	G/VAL/N/1/CHN/2, 16/06/2003
	Customs administration regarding determination of customs valuation of imports and exports	G/VAL/N/1/CHN/1, 05/07/2002
Decision on the checklist of issues	Checklist of issues	G/VAL/N/2/CHN/1, 05/07/2002
<b>General Agreement on Tariffs and Trade (GATT) 1994</b>		
Article XVII:4(a)	Notification of the understanding on the interpretation of Article XVII, on State-trading	G/STR/N/9/CHN/Add.1, 14/07/2003, and G/STR/N/9/CHN/Corr.1
Article VII	Notifications on the valuation of carrier media-bearing software for data processing equipment, and on the treatment of interest charges in customs value of imported goods	G/VAL/N/3/CHN/1, 27/02/2004
<b>General Agreement on Trade in Services</b>		
Article III:3	Significant changes	No notifications in 2008
	Regulations on Administration of Foreign-Invested Construction Enterprises	S/C/N/566, 15/09/2010
	Regulations on Administration of Foreign-Invested Construction and Engineering Service Enterprises	S/C/N/565, 15/09/2010
	Measures for the Administration on the Establishment of Partnership Business by Foreign Enterprises or Individuals in China	S/C/N/564, 15/09/2010
Article III:4 and IV:2	Contact and enquiry points	S/ENQ/78/Rev.11, 26/10/2009
Article V:7 (a) of GATS	Agreement encompasses trade in services between China and Chile	S/C/N/577, 22/11/2010
	Free Trade Agreement between China and Pakistan	S/C/N/551, 21/05/2010
Paragraph 14 of the Transparency Mechanism for Regional Trade Agreements (WT/L/671) and Article V:7 (a) of GATS	Supplement VI to the Closer economic partnership agreement between China and Hong Kong, China and Supplement to the Closer economic partnership agreement between China and Macao, China	WT/REG162/N/1/Add.4 S/C/N/264/Add.4, 17/12/2010 WT/REG163/N/1/Add.4 S/C/N/265/Add.4, 03/12/2010
Article VII:4	Existing Article VII:1 recognition measures	None
<b>Agreement on Preshipment Inspection</b>		
Article 5	Notification of laws and regulations related to the Agreement	None
<b>Agreement on Import Licensing Procedures</b>		
Articles 1.4(a) and 8.2(b)	Rules and measures on import licensing and import quotas	G/LIC/N/1/CHN/1, 20/09/2002 G/LIC/N/1/CHN/1/Add.1, 23/09/2002 G/MA/W/41, 23/09/2002
Article 8.2(b)	Notification of rules and measures on import quota for various products	G/LIC/N/1/CHN/2, 25/09/2003
	Products subject to import licence (2004)	G/LIC/N/1/CHN/4, 17/01/2005
	Notification of regulations and rules on import licensing	G/LIC/N/1/CHN/6, 24/03/2010,
Article 7.3	Replies to questionnaire on import licensing procedures	G/LIC/N/3/CHN/9, 11/11/2010
<b>Quantitative Restrictions</b>		
QR - (G/L/59) - biennial	Notification of quantitative restrictions	G/MA/NTM/QR/1/Add.11, 11/04/2008

Table AII.2 (cont'd)

Agreement	Requirement/content	Document symbol and date of latest notification
<b>Agreement on Rules of Origin</b>		
Article 5 and Paragraph 4 of Annex II	Preferential rules of origin	G/RO/N/37/Rev.1, 02/08/2002
<b>Agreement on Safeguards</b>		
Article 12.1(a) - (c), and Article 9.1 footnote 2	Safeguard investigations, findings, and decisions	G/SG/N/10/CHN/1/Suppl.1, 04/02/2004
Article 12.4	Consultations	G/SG/N/11/CHN/1; G/SG/N/6/CHN/1; G/SG/N/7/CHN/1, 23/05/2002
Article 12.5 and Article 8.2	Notification of proposed suspension of concessions and other obligations referred to in Article 8.2 of the Agreement on Safeguards.	G/C/17; G/SG/46, 21/05/2002
Article 12.6	Notification of laws, regulations and administrative procedures relating to safeguard measures	G/SG/N/1/CHN/1, 07/06/2002
	Regulations on Safeguards	G/SG/N/1/CHN/2/Suppl.3, 20/10/2004
	Rules on investigations and determinations of industry injury for safeguards; rules on public hearings with regard to investigations of injury to industry	G/SG/N/1/CHN/2/Suppl.2, 15/04/2003
<b>Agreement on the Application of Sanitary and Phytosanitary Measures</b>		
Article 7 and Annex B	Notifications in 2011 = 91 Notifications in 2010 = 103	G/SPS/N/CHN/355-445 G/SPS/N/CHN/202-304
Article 7 and Annex B	Enquiry points	G/SPS/ENQ/25, 15/10/2009
<b>Agreement on Subsidies and Countervailing Measures</b>		
Article 25.1	Programmes granted or maintained at the central government level during the period from 2005 to 2008	G/SCM/N/155/CHN G/SCM/N/186/CHN, 21/10/2011
Article 25.11	Semi-annual report on countervailing duty actions	G/SCM/N/228/CHN, 12/10/2011
Article 32.6	Notification of the amended Foreign Trade Law	G/SG/N/1/CHN/2/Suppl.4, 01/12/2004
	Regulations on countervailing measures	G/SCM/N/1/CHN/1/Suppl.3, 20/10/2004
	Rules on investigations and determinations of industry injury for countervailing measures; rules on public hearings with regard to investigations of injury to industry	G/SCM/N/1/CHN/1/Suppl.2, 14/04/2003
	Provisional rules on countervailing investigations	G/SCM/N/1/CHN/1/Suppl.1, 18/02/2003
Article 18 of the Protocol of Accession of the People's Republic of China	Information on pricing policies	G/SCM/N/198, 05/10/2009
<b>Agreement on Technical Barriers to Trade (TBT)</b>		
Annex 3C	Acceptance of code of good practice	G/TBT/CS/N/143, 21/05/2002 G/TBT/CS/N/138, 12/12/2001 and Corr.1, 30/01/2003
Article 15.2	Laws and regulations on the implementation and administration of the TBT Agreement	G/TBT/2/Add.65, 29/01/2002
Article 2.10	Notification regarding environmental measures, technical barriers and technical regulations	G/TBT/N/CHN/55/Rev.1, 10/10/2011
Article 2.9	Notification of technical regulations: Notifications in 2011 = 83  Notifications in 2010 = 74	G/TBT/N/CHN782-797, 799-857 G/TBT/N/CHN/217/Rev.1 G/TBT/N/CHN714-774, G/TBT/N/CHN/20/Rev.1 G/TBT/N/CHN/20/Rev.1/Suppl.1
Article 5.6	Notification of products covered by conformity assessment procedure	G/TBT/N/CHN/140/Rev.1, 21/10/2010 G/TBT/N/CHN/775-781, 10/01/2011 G/TBT/N/CHN/798/Suppl.1, 13/04/2011 G/TBT/N/CHN/798, 11/03/2011

Table AII.2 (cont'd)

Agreement	Requirement/content	Document symbol and date of latest notification
Article 5.7	Notification of regulations issued to protect the environment	G/TBT/N/CHN/56-58, 14/07/2004
<b>Agreement on Trade-Related Aspects of Intellectual Property Rights</b>		
Article 63.2	Revising the Rules for the Implementation of the Patent Law	IP/N/1/CHN/4, 24/08/2011 IP/N/1/CHN/P/3, 26/08/2011
	Revising the Patent Law	IP/N/1/CHN/3, 15/12/2010 IP/N/1/CHN/P/2, 21/12/2010
	Laws and regulations	IP/N/1/CHN/2, 10/10/2003 IP/N/1/CHN/2/Add.1, 25/08/2004
	Checklist of issues on enforcement	IP/N/6/CHN/1, 19/07/2002
	Regulations on computer software protection	IP/N/1/CHN/C/2/Rev.1, 13/10/2003
	Regulations on protection of new varieties of plants	IP/N/1/CHN/P/1, 08/07/2002
Article 69	Contact points	IP/N/3/Rev.9/Add.1, 31/01/2006
<b>Agreement on Trade-Related Investment Measures</b>		
Article 6.2	Publications	G/TRIMS/N/2/Rev.19, 30/09/2009

Source: WTO documents.

**Table AII.3**  
**Overview of China's free-trade agreements, 2012**

<b>CHINA-ASEAN</b>	
Parties	China, ASEAN (Brunei Darussalam; Myanmar; Cambodia; Indonesia; Lao People's Democratic Republic; Malaysia; Philippines; Singapore; Viet Nam; Thailand)
Date of signature/entry into force	22.11.2004 (Goods), 14.01.2007 (Services)/20.07.2005 (Goods); 01.07.2007 (Services)
Transition for full implementation	2015 (The agreements stipulate that new ASEAN members - Viet Nam, Laos, Cambodia, and Myanmar - may implement preferential tariffs at a later date than the other six ASEAN members and China)
Main products excluded from liberalization	The agreement includes provisions on general exceptions and security exceptions but does not include a specific list of excluded products. In addition, the agreement allows all parties to list 100 to 150 products at HS six-digit level as "highly sensitive products" whose tariff rates should be reduced to at least 50% before 1 January 2015. The list of China's highly sensitive products includes some agricultural products, wood products, paper products, etc.
China merchandise trade (2010) of which preferential <sup>a</sup>	Imports from ASEAN: 11.1% of total; exports to ASEAN: 9% of total Imports: 11.86%
China commercial services trade (2010)	..
Related WTO documents	WT/COMTD/51, S/C/N/453
Relevant websites	<a href="http://www.mofcom.gov.cn/">http://www.mofcom.gov.cn/</a> <a href="http://www.aseansec.org/">http://www.aseansec.org/</a>
<b>ASIA PACIFIC TRADE AGREEMENT (APTA)</b>	
Parties	China; Bangladesh; India; Korea, Republic of; Lao People's Democratic Republic; Sri Lanka
Date of signature/entry into force	31.07.1975 and 12.04.2001 for the accession of China/17.06.76 and 01.01 2002 for the accession of China
Transition for full implementation	..
Main products excluded from liberalization	Products other than certain agricultural products, drugs, chemicals, plastics, textiles, metals, and mechanical and electrical products that are covered by the agreement
China merchandise trade (2010) of which preferential <sup>a</sup>	Imports from other APTA members: 10.8% of total; exports to other APTA Members: 7.6% of total Imports: 6.48%
Related WTO documents	WT/COMTD/N/22, WT/COMTD/62
Relevant websites	<a href="http://www.mofcom.gov.cn/">http://www.mofcom.gov.cn/</a> <a href="http://www.unescap.org/tid/apta.asp">http://www.unescap.org/tid/apta.asp</a>
<b>CHINA-Chile</b>	
Parties	China, Chile
Date of signature/entry into force	18.11.2005 (Goods), 13.04.2008 (Services)/01.08.2006 (Goods), 01.08.2010 (Services)
Transition for full implementation	2015 (Apart from the excluded products China and Chile will remove import tariffs on each other's' products within 10 years after the implementation of the agreement. For China, 37.5% of tariffs (in terms of tariff lines) are to be eliminated on the day the agreement enters into force, and 25.8% are to be eliminated within 10 years. 74.5% of Chile's tariffs are to be eliminated immediately, and other tariffs are to be eliminated within 5 and 10 years, respectively.
Main products excluded from liberalization	China's excluded products mainly include wood and paper products, edible vegetable oils, tariff-quota products, and iodine, and Chile's excluded products include retreaded tyres
China merchandise trade (2010) of which preferential <sup>a</sup>	Imports from Chile: 1.2% of total; exports to Chile: 0.6% of total Imports: 2.14%
China commercial services trade (2009)	Imports from Chile: 0.45% of total; exports to Chile: 0.04% of total
Related WTO documents	WT/REG/230, S/C/N/577
Relevant websites	<a href="http://www.mofcom.gov.cn/">http://www.mofcom.gov.cn/</a> <a href="http://www.direcon.gob.cl/">http://www.direcon.gob.cl/</a>

Table AII.3 (cont'd)

<b>CHINA-Hong Kong, China</b>	
Parties	China, Hong Kong, China
Date of signature/entry into force	29.06.2003/01.01.2004
Transition for full implementation	January 2006 (The zero-tariff is applied to 1,623 products for which consultation on rules of origin have been completed)
Main products excluded from liberalization	Products prohibited from importation by the Chinese Mainland according to relevant laws and regulations; products prohibited from importation in accordance with the Chinese Mainland's obligations under international treaties; and products for which the Chinese Mainland has special commitments in relevant international agreements
China merchandise trade (2010)	Imports from Hong Kong, China: 0.9% of total; exports to Hong Kong, China: 13.8% of total
of which preferential <sup>a</sup>	Imports: 7.21%
China commercial services trade (2010)	Imports from Hong Kong, China: 17.6% of total; exports to Hong Kong, China: 34.9% of total
Related WTO documents	WT/REG162, S/C/N/264
Relevant websites	<a href="http://www.mofcom.gov.cn/">http://www.mofcom.gov.cn/</a> <a href="http://www.tid.gov.hk/">http://www.tid.gov.hk/</a>
<b>CHINA-Macao, China</b>	
Parties	China, Macao, China
Date of signature/entry into force	17.10.2003/01.01.2004
Transition for full implementation	January 2006 (The zero-tariff is applied to 1,215 products for which consultations on rules of origin have been completed)
Main products excluded from liberalization	Products prohibited from importation by the Chinese Mainland according to relevant laws and regulations; products prohibited from importation in accordance with the Chinese Mainland's obligations under international treaties; and products for which the Chinese Mainland has special commitments in relevant international agreements
China merchandise trade (2010)	Imports from Macao, China: 0.01% of total; exports to Macao, China: 0.34% of total
of which preferential <sup>a</sup>	Imports: 6.77%
China commercial services trade (2010)	Imports from Macao, China: 2.8% of total; exports to Macao, China: 1.7% of total
Related WTO documents	WT/REG/163, S/C/N/265
Relevant websites	<a href="http://www.mofcom.gov.cn/">http://www.mofcom.gov.cn/</a> <a href="http://www.economia.gov.mo/index.jsp">http://www.economia.gov.mo/index.jsp</a>
<b>CHINA-New Zealand</b>	
Parties	China, New Zealand
Date of signature/entry into force	07.04.2008/01.10.2008
Transition for full implementation	2019 (New Zealand will remove tariffs on products imported from China gradually within 9 years of the implementation of the agreement; 27.2% of them are to be eliminated within 5 years, with 1.2% within 6 years, 6.4% within 7 years, and 1.6% within 9 years. China is to eliminate tariffs on 97.2% of imports from New Zealand gradually, within 12 years of implementation of the agreement; 24.2% of them to be eliminated immediately; 66.8% within 5 years, and 5.7% within 6 years; and 43 tariffs are to be eliminated within 9 to 12 years)
Main products excluded from liberalization	China's excluded products mainly include tariff-quota products (excluding wool and wool tops), certain edible vegetable oils, wood and paper products
China merchandise trade (2010)	Imports from New Zealand: 0.3% of total; exports to New Zealand: 0.2% of total
of which preferential <sup>a</sup>	Imports: 22.37%
China commercial services trade (2008)	Imports from New Zealand: 0.41% of total; exports to New Zealand: 0.15% of total
Related WTO documents	WT/REG/266, S/C/N/491
Relevant websites	<a href="http://www.mofcom.gov.cn/">http://www.mofcom.gov.cn/</a> <a href="http://www.mfat.govt.nz/">http://www.mfat.govt.nz/</a>

Table AII.3 (cont'd)

<b>CHINA-Singapore</b>	
Parties	China, Singapore
Date of signature/entry into force	23.10.2008/01.01.2009
Transition for full implementation	2010
Main products excluded from liberalization	Please refer to the China-ASEAN free-trade agreement
China merchandise trade (2010) of which preferential <sup>a</sup>	Imports from Singapore: 1.6% of total; exports to Singapore: 1.9% of total Imports: 5.73%
China commercial services trade (2008)	Imports from Singapore: 2.16% of total; exports to Singapore: 3.71% of total
Related WTO documents	WT/REG/262, S/C/N/483
Relevant websites	<a href="http://www.mofcom.gov.cn/">http://www.mofcom.gov.cn/</a> <a href="http://www.iesingapore.gov.sg/">http://www.iesingapore.gov.sg/</a>
<b>CHINA-Pakistan</b>	
Parties	China, Pakistan
Date of signature/entry into force	24.11.2006 (Goods), 21.02.2009 ( Services)/01.07.2007 (Goods), 10.10.2009 (Services)
Transition for full implementation	2012 (China and Pakistan will implement tariff reductions for all products in two stages: in the first stage 85% of all tariff lines are to be reduced at different rates within five years of entry into force of the agreement; the tariff on approximately 36% of products will be reduced to zero within three years of the agreement, and on the remainder to 5% or below or by 50% or 20% within five years. All tariff reductions in the first stage were completed on 1 January 2012. China and Pakistan have started negotiations for the second stage
Main products excluded from liberalization	Nearly all chapters concerned
China merchandise trade (2010) of which preferential <sup>a</sup>	Imports from Pakistan: 0.1% of total; exports to Pakistan: 0.4% of total Imports: 28.28%
China commercial services trade (2008)	Imports from Pakistan: 0.14% of total; exports to Pakistan: 0.24% of total
Related WTO documents	WT/REG/237, S/C/N/551
Relevant websites	<a href="http://www.mofcom.gov.cn/">http://www.mofcom.gov.cn/</a> <a href="http://www.commerce.gov.pk/index.asp">http://www.commerce.gov.pk/index.asp</a>
<b>CHINA-Peru</b>	
Parties	China, Peru
Date of signature/entry into force	28.04.2009/01.03.2010
Transition for full implementation	2026 (Peru will gradually remove tariffs on 92% of products imported from China upon entry into force of the agreement. Tariffs on 90% of the products will be reduced to zero within 10 years, and on 2% to zero within 12, 15, 16, and 17 years, respectively. China will gradually remove tariffs on 94.6% of products imported from Peru upon entry into force of the agreement. Tariffs on 93.8% of the products will be reduced to zero within 12, 15, 16, and 17 years
Main products excluded from liberalization	China's excluded products include wood and paper products, certain edible vegetable oils, tobacco, LCD panel, and pure terephthalic acid. Peru's excluded products include certain textiles, shoes, and other commodities
China merchandise trade (2010) of which preferential <sup>a</sup>	Imports from Peru: 0.5% of total; exports to Peru: 0.2% of total Imports: 0.66%
China commercial services trade (2009)	Imports from Peru: 0.16% of total; exports to Peru: 0.02% of total
Related WTO documents	WT/REG/281, S/C/N/537
Relevant websites	<a href="http://www.mofcom.gov.cn/">http://www.mofcom.gov.cn/</a> <a href="http://www.mincetur.gob.pe/newweb/">http://www.mincetur.gob.pe/newweb/</a>

Table AII.3 (cont'd)

<b>CHINA-Costa Rica</b>	
Parties	China, Costa Rica
Date of signature/entry into force	08.04.2010/01.08.2011
Transition for full implementation	China and Costa Rica will implement tariff concessions and reductions for all products by category. A zero tariff will be applied immediately to products in category one upon implementation of the agreement; these account for 65.3% and 62.9% of China's and Costa Rica's total tariff lines, respectively. Tariffs on products in category two, accounting for 28.7% and 4% of China's and Costa Rica's total tariff lines, respectively, will be reduced to zero within five years; on products in category three, accounting for 1.8% and 21.5% of total tariff lines, within 10 years; and on products in category four, accounting for 0.9% and 2.5% of total tariff lines, within 15 years. Products in category five, accounting for 3.3% and 8.9% of total tariff lines, are excluded products, and MFN tariffs will be maintained without tariff concessions
Main products excluded from liberalization	China's excluded products include mainly certain edible vegetable oils, wood and paper products, FPTV, LCD modules, digital colour TVs and key parts. Costa Rica's excluded products include mainly beef, aquatic products, dairy products, flowers, vegetables, dried fruits, coffee, tea leaves, textiles, clothing
China merchandise trade (2010)	Imports from Costa Rica: 0.2% of total; exports to Costa Rica: 0.05% of total
China commercial services trade (2010)	..
Related WTO documents	-
Relevant websites	<a href="http://www.mofcom.gov.cn/">http://www.mofcom.gov.cn/</a> <a href="http://www.comex.go.cr/Paginas/inicio.aspx/">http://www.comex.go.cr/Paginas/inicio.aspx/</a>
<b>CROSS-STRAITS ECONOMIC COOPERATION FRAMEWORK AGREEMENT (ECFA)</b>	
Parties	China, Chinese Taipei
Date of signature/entry into force	29.06.2010/12.09.2010
Transition for full implementation	Negotiations are being conducted on the ECFA goods trade, and the tariff concession plan between China and Chinese Taipei is yet to be fully implemented
Main products excluded from liberalization	According to the ECFA goods trade early-stage harvest plan, tariffs on 539 products originating from Chinese Taipei will be reduced in the Mainland (2009 Tariff Schedule) and tariffs on 267 products originated from the Mainland will be reduced in Chinese Taipei (2009 Tariff Schedule)
China merchandise trade (2010)	Imports from Chinese Taipei: 8.3% of total; exports to Chinese Taipei: 1.9% of total
China commercial services trade (2010)	Imports from Chinese Taipei: 2.6% of total; exports to Chinese Taipei: 4.4% of total
Related WTO documents	-
Relevant websites	<a href="http://www.mofcom.gov.cn/">http://www.mofcom.gov.cn/</a>

.. Not available.

a Share of total partner imports that enter under FTA provisions.

Source: WTO Secretariat; and the Chinese authorities.

**Table AIII.1**  
**China's preferential rules of origin, 2012**

Agreement/Party	Rules
APTA	<p>Wholly obtained or produced in the country; or</p> <p>The value of non-originating parts or components used in the manufacture must not exceed 55% of the f.o.b. value of the product (or 65% for LDCs); or</p> <p>Cumulation allowed, i.e. cumulation in terms of materials and components between the Parties must be no lower than 60% of the f.o.b. value of the product (50% for LDCs); and</p> <p>The country of origin is defined as the country where the last manufacturing operation takes place.</p> <p>Requirements on direct consignment must be complied with.</p>
ASEAN	<p>Wholly obtained or produced in ASEAN countries; or</p> <p>The content of products originating in any one of the ASEAN countries should be no less than 40% of total content; or</p> <p>The value of the non-originating parts or components used in the manufacture of the products must be no more than 60% of the f.o.b. value of the product.</p> <p>The country of origin is defined as the country where the last manufacturing operation takes place, or in accordance with product-specific rules.</p> <p>Requirements on direct consignment must be complied with.</p>
Least developed countries	<p>Wholly obtained or produced in the beneficiary country; or</p> <p>The non-originating parts must have undergone substantial transformation. "Substantial transformation" means change of tariff heading or the value of non-originating parts used in the manufacture of the good does not exceed 60% of the f.o.b. value of the product; or</p> <p>Product specific rules.</p> <p>The final stage of processing must be in the country of origin; and</p> <p>Requirements on direct consignment must be complied with.</p>
Hong Kong, China	<p>Wholly obtained or produced in Hong Kong, China, or</p> <p>The non-originating parts must have undergone substantial transformation.</p> <p>"Substantial transformation" is defined in Product Specific Rules, which includes the following criteria:</p> <ol style="list-style-type: none"> <li>1. change of tariff heading;</li> <li>2. a regional value content (RVC) of equal or more than 30% of the f.o.b. value of the product;</li> <li>3. specific process or production;</li> <li>4. other criteria; or</li> <li>5. combination of the above criteria.</li> </ol> <p>The final stage of processing must be carried out in Hong Kong, China.</p> <p>Goods must enter China directly.</p>
Macao, China	<p>Wholly obtained or produced in Macao, China, or</p> <p>The non-originating parts must have undergone substantial transformation.</p> <p>"Substantial transformation" is defined in Product Specific Rules, which include the following criteria:</p> <ol style="list-style-type: none"> <li>1. change of tariff heading;</li> <li>2. a regional value content (RVC) of equal or more than 30% of the f.o.b. value of the product;</li> <li>3. specific process or production;</li> <li>4. other criteria; or</li> <li>5. combination of the above criteria.</li> </ol> <p>The final stage of processing must be carried out in Macao, China.</p> <p>Goods must enter China directly.</p>
Chile	<p>Wholly obtained or produced entirely in the territory of one Party; or</p> <p>Produced entirely in the territory of one or both Parties exclusively from originating material; or</p> <p>Produced in the territory of one or both Parties, using non-originating materials that conform to a regional value content not less than 40%, except for the goods listed in Product Specific Rules, which must comply with the requirements specified therein; or</p> <p>Product specific rules.</p> <p>Bilateral cumulation allowed, i.e. cumulation in terms of materials between the Parties.</p> <p>Tolerance rule: for tariff classification change criterion, non-originating materials can represent a maximum of 8% of the f.o.b. value of product.</p> <p>Requirements on direct transport must be complied with.</p>

**Table AIII.1 (cont'd)**



Agreement/Party	Rules
New Zealand	<p>Wholly obtained or produced in the territory of one Party; or  Produced entirely in the territory of one or both Parties exclusively from originating materials; or  Product specific rules:  - wholly obtained or entirely produced in New Zealand; or  - a change of tariff classification applies (at HS 2-digit, 4-digit or 6-digit level);  - regional value content of 30%, 40%, 45%, or 50% applies to some products; or  - specific process.</p> <p>Bilateral cumulation allowed, i.e. cumulation in terms of materials between the Parties.  Tolerance rule: for tariff classification change criterion, non-originating materials can represent a maximum of 10% of the f.o.b. value of product.  Requirements on direct consignment must be complied with.</p>
Pakistan	<p>Wholly obtained or produced in Pakistan, or  The content of the product originating in Pakistan should be no less than 40% of total content; or  The non-originating parts must have undergone substantial transformation as defined in Product Specific Rules.</p> <p>Bilateral cumulation allowed, i.e. cumulation in terms of materials and components between the Parties.  No tolerance rule.  The final stage of processing must be carried out in Pakistan.  Requirements on direct consignment must be complied with.</p>
Singapore	<p>Wholly obtained or produced in Singapore, or  A regional value content of no less than 40% applies except for the goods listed in Product Specific Rules, which must comply with the requirements specified therein; or  Product Specific Rules.</p> <p>Bilateral cumulation allowed, i.e. cumulation in terms of materials and components between the Parties.  Tolerance rule: for tariff classification change criterion, non-originating materials can represent a maximum of 10% of the f.o.b. value of product.  Requirements on direct consignment must be complied with.</p>
Peru	<p>Wholly obtained or produced in Peru; or  Produced entirely in the territory of one or both Parties exclusively from originating material; or  Product Specific Rules.</p> <p>Bilateral cumulation allowed, i.e. cumulation in terms of materials and components between the Parties.  Tolerance rule: for tariff classification change criterion, non-originating materials can represent a maximum of 10% of the value of product (pursuant to regional value content).  Requirements on direct transport must be complied with.</p>
Costa Rica	<p>Wholly obtained or produced in Costa Rica; or  Produced entirely in the territory of one or both Parties exclusively from originating material; or  Product Specific Rules.</p> <p>Bilateral cumulation allowed, i.e. cumulation in terms of materials and components between the Parties.  Tolerance rule: for tariff classification change criterion, non-originating materials can represent a maximum of 10% of the f.o.b. value of product (pursuant to regional value content).  Requirements on direct transport must be complied with.</p>

Source: Information provided by the Chinese authorities.

**Table AIII.2**  
**Imports allocated to state-trading enterprises, 2009-11**

Product	HS Code	% of tariff quota allocated to state-trading enterprises		
		2009	2010	2011
Wheat	10011000; 10019010; 10019090; 11010000; 11031100; 11032010	90	90	90
Maize	10051000; 10059000; 11022000; 11031300; 11042300	60	60	60
Rice	10061011; 10061019; 10061091; 10061099; 10062010; 10062090; 10063010; 10063090; 10064010; 10064090; 11029011; 11029019; 11031921; 11031929	50	50	50
Sugar	17011100; 17011200; 17019100; 17019910; 17019920; 17019990	70	70	70
Cotton	52010000; 52030000	33	33	33
Urea	31021000	90	90	90
NPK	31052000	51	51	51
Diammonium phosphate	31053000	51	51	51
Other chemical fertilizers	31022100; 31022900; 31023000; 31024000; 31025000; 31026000; 31027000; 31028000; 31029000; 31031000; 31032000; 31039000; 31041000; 31042010; 31042090; 31043000; 31049000; 31051000; 31054000; 31055100; 31055900; 31056000; 31059000	n.a.	n.a.	n.a.
Tobacco	55020010; 56012210; 24011010; 24011090; 24012010; 24012090; 24013000; 24021000; 24022000; 24029000; 24031000; 24039100; 24039900; 48131000; 48132000; 48139000; 84781000; 84789000	n.a.	n.a.	n.a.
Crude oil	27090000	n.a.	n.a.	n.a.
Processed oil	27101110; 27101120; 27101191; 27101911; 27101912; 27101921; 27101929; 27101922	n.a.	n.a.	n.a.
Rapeseed oil	15141100; 15141900; 15149110; 15149190; 15149900	Abolished since 1 January 2006		
Soybean oil	15071000; 15079000	Abolished since 1 January 2006		
Palm oil	15111000; 15119010; 15119090	Abolished since 1 January 2006		

n.a. Not applicable. These products, although subject to import under state trading, are not subject to tariff-rate quotas.

Source: Information provided by the authorities.

**Table AIII.3**  
**Export products subject to state-trading arrangements, 2011**

Product (HS code)	Enterprises
<b>Rice</b> 10061011; 10061019; 10061091; 10061099; 10062010; 10062090; 10063010; 10063090; 10064010; 10064090	COFCO Corporation; and Jilin Grain Group Import & Export Co. Ltd.
<b>Maize</b> 10051000; 10059000; 11042300	COFCO Corporation; and Jilin Grain Group Import & Export Co. Ltd.
<b>Cotton</b> 52010000; 52030000	Chinatex Cotton Import and Export Corporation; Xinjiang Uygur Autonomous Region Cotton and Jute Import and Export Co.; Xinjiang Nong Ken Import and Export Co. Ltd.; and China National Cotton Reserve Corporation
<b>Coal</b> 27011100; 27011210; 27011290; 27011900; 27021000	China National Coal Group Corporation; Shanxi Coal Import and Export Group Co. Ltd.; Shenhua Group Corporation Ltd.; and China Minmetals Corporation
<b>Crude oil</b> 27090000	SINOCHEM Corporation; China International United Petroleum & Chemicals Co.; and China National United Oil Co.
<b>Processed oil</b> 27101110; 27101120; 27101191; 27101199; 27101911; 27101912; 27101919; 27101921; 27101929; 27101991; 27101992; 27101993; 27111100	SINOCHEM Corporation; China International United Petroleum & Chemicals Co.; China National United Oil Co.; China National Offshore Oil Corporation; and China National Aviation Fuel Group Corporation
<b>Tungsten ore and products</b> 26110000; 26209910; 28418010; 28418040; 28259012; 28259019; 28259011; 28418020; 28418030; 28499020; 81011000; 81019400; 81019700	STEs listed in MOFCOM Circular Shang Mao Han No.1131 of 2011
<b>Antimony ore and products</b> 26171010; 26171090; 28258000; 81101010; 81101020; 81102000; 81109000	STEs listed in MOFCOM Circular Shang Mao Han No. 1131 of 2011
<b>Silver</b> 71061011; 71061019; 71061021; 70161029; 71069110; 71069190; 71069210; 71069290	STEs listed in MOFCOM Announcement No. 44 of 2011
<b>Tobacco</b> 55020010; 24011010; 24011090; 24012010; 24012090; 24013000; 24021000; 24022000; 24029000; 24031000; 24039100; 24039900; 48131000; 48132000; 48139000; 56012210; 84781000; 84789000	STEs listed in MOFTEC Announcement No. 44 of 2001 ( <a href="http://www.mofcom.gov.cn/aarticle/b/c/200404/20040400210082.html">http://www.mofcom.gov.cn/aarticle/b/c/200404/20040400210082.html</a> )

Source: Information provided by the authorities.

**Table AIII.4**  
**Revised vehicle and vessel tax, 1 January 2012**

Tax items		Tax unit	Standard annual tax amount	Notes
Passenger vehicles (classified in accordance with cylinder capacity (displacement) of engines)	1.0 l or below	Per vehicle	¥60 up to ¥360	Ratified number of passengers: 9 or less
	More than 1.0 l up to 1.6 l		¥300 up to ¥540	
	More than 1.6 l up to 2.0 l		¥360 up to ¥660	
	More than 2.0 l up to 2.5 l		¥660 up to ¥1,200	
	More than 2.5 l up to 3.0 l		¥1,200 up to ¥2,400	
	More than 3.0 l up to 4.0 l		¥2,400 up to ¥3,600	
Commercial vehicles	Passenger vehicles	Per vehicle	¥480 up to ¥1,440	Ratified number of passengers: more than 9, including electric cars
	Cargo vehicles	Per tonne of complete vehicle kerb mass	¥16 up to ¥120	Including semi-trailer towing vehicles, three-wheel trucks, low-speed cargo trucks, etc.
Trailers		Per tonne of complete vehicle kerb mass	Calculated as per 50% of the tax amount of cargo vehicles	
Other vehicles	Special operational vehicles	Per tonne of complete vehicle kerb mass	¥16 up to ¥120	Excluding tractors
	Special wheeled mechanical vehicles		¥16 to ¥120	
Motorcycles		Per vehicle	¥36 up to ¥180	
Vessels	Motor vessels	Per tonne of its net tonnage	¥3 up to ¥6	Tugboats and non-motor barges calculated as per 50% of the tax amount of motor vessels
	Yachts	Per meter of its length of hull	¥600 up to ¥2,000	

Source: Information provided by the Chinese authorities.

**Table AIII.5**  
**Excise (or consumption) tax, 2010-11**

<b>Product</b>	<b>2010-11</b>
<b>Tobacco</b>	
Cigars	36%
Cigarettes:	
Production procedure	
Cigarettes, if the price is higher than ¥70 per carton	56% plus ¥0.003 per cigarette
Cigarettes, if the price is lower than ¥70 per carton	36% plus ¥0.003 per cigarette
Wholesaling procedure	5%
Some tobacco products	30%
<b>Alcoholic drinks and alcohol</b>	
White spirit distilled from grain, potatoes, or grapes	20% plus ¥1 per kg
Yellow rice wine	¥240 per tonne
Beer made from malt, and of a value over or equal to US\$370 per tonne	¥250 per tonne
Beer made from malt, and of a value less than US\$370 per tonne	¥220 per tonne
Other fermented beverages	10%
Ethyl alcohol	5%
<b>Some cosmetics (apart from skin-care products)</b>	30%
<b>Precious jewellery, pearls, jade and precious stone</b>	
Gold, silver, platinum jewellery, and diamonds	5%
Pearls, jade, and precious stones	10%
<b>Firecrackers and fireworks</b>	15%
<b>Gasoline</b>	
Motor gasoline and aviation gasoline (containing lead more than 0.013 g per litre)	¥1.4 per litre
Motor gasoline and aviation gasoline (containing lead less than 0.013 g per litre)	¥1.0 per litre
Diesel oil	¥0.8 per litre
Aviation kerosene	¥0.8 per litre
Naphtha	¥1.0 per litre
Solvent	¥1.0 per litre
Lubricants	¥1.0 per litre
Fuel oil	¥0.8 per litre
<b>Motor vehicle tyres</b>	3%
<b>Motorcycles</b>	
With a cylinder capacity less than or equal to 250 ml	3%
With a cylinder capacity over 250 ml	10%
<b>Motor vehicles</b>	
Passenger vehicles with less than 9 seats	
- with a cylinder capacity of less than 1,000 ml	1%
- with a cylinder capacity of more than 1,000ml but less than 1,500 ml	3%
- with a cylinder capacity of more than 1,500 ml, but less than 2,000 ml	5%
- with a cylinder capacity of more than 2,000 ml, but less than 2,500 ml	9%
- with a cylinder capacity of more than 2,500 ml, but less than 3,000 ml	12%
- with a cylinder capacity of more than 3,000 ml, but less than 4,000 ml	25%
- with a cylinder capacity of 4,000 ml or more	40%
Middle-size or light passenger vehicles for commercial purposes	5%

**Table AIII.5 (cont'd)**

<b>Product</b>	<b>2010-11</b>
Some boats	10%
Some luxury watches, with a unit price higher than ¥10,000	20%
Golf clubs, balls, and other golf equipment	10%
Floor boards	5%
Disposable chopsticks	5%

*Source:* Information provided by the Chinese authorities.

**Table AIII.6**  
**Status of selected Central-Government assistance measures in China since 2005, as stipulated in relevant laws, regulations and rules, and circulars, March 2012**

Measures	Incentives	Status of the programme, based on relevant laws, regulations, rules, circulars, or WTO notifications
<b>(1) Measures notified by China in October 2011</b>		
<b>(a) Assistance to the energy sector and to environmental protection under takings</b>		
<i>Currently in force</i>		
Preferential tax policies for high or new technology enterprises	Preferential tax treatment	1 January 2008 to present
Preferential tax treatment for public infrastructure projects that are particularly supported by the State	Preferential tax treatment	1 January 2008 to present
Preferential tax treatment for projects for environmental protection, water and energy conservation	Preferential tax treatment	1 January 2008 to present
Preferential tax treatment for building material products produced with integrated utilization of resources	Preferential tax treatment	1 January 2008 to present
Preferential tax policies for Clean Development Mechanism	Preferential tax treatment	1 January 2007 to present
<i>Terminated</i>		
Preferential tax policies for enterprises which utilize the waste materials	Preferential tax treatment	Terminated 31 December 2007
Preferential tax treatment for products produced with integrated utilization of resources	Preferential tax treatment	Terminated 30 June 2008
Preferential tax treatment for building material products produced with integrated utilization of resources	Preferential tax treatment	Terminated 31 December 2008
Preferential tax treatment for renewable resources	Preferential tax treatment	Terminated 31 December 2008
Special fund for the industrialization of wind power equipment	Financial appropriation	Terminated 31 December 2009
<b>(b) Assistance to small and medium-sized enterprises</b>		
<i>Currently in force</i>		
Fund for supporting technological innovation of the technological small and SMEs	Financial appropriation	1 January 1999 to present
Development fund for SMEs	Financial appropriation	1 January 2004 to present
Special fund for establishment of service system for SMEs	Financial appropriation	1 January 2003 to present
Fund for international market exploration by SMEs	Financial appropriation	1 January 2001 to present
Preferential tax policies for enterprises making little profits	Preferential tax treatment	1 January 2008 to present
<i>Terminated</i>		
Preferential tax policies for township enterprises	Preferential tax treatment	Terminated 31 December 2007
<b>(c) Assistance to research and development, support for specific industries, assistance for industrial development</b>		
<i>Currently in force</i>		
Preferential tax policies for the research and development of enterprises	Preferential tax treatment	1 January 2008 to present
Preferential tax policies for enterprises transferring technology	Preferential tax treatment	1 January 2008 to present
Research and development fund for industrial technologies	Financial appropriation	1 January 2002 to present
Fund for promotion of coordinated development of foreign trade and economic relations among regions	Financial appropriation	1 January 2000 to present
Subsidy for scrapping old vehicles	Financial appropriation	1 January 2002 to present
Preferential tax policies for integrated circuit industry	Preferential tax treatment	1 July 2000 to present
Fund for research and development of integrated circuit industry	Financial appropriation	1 June 2005 to present
Fund for development of electrical information industry	Financial appropriation	1 January 1986 to present

Table AIII.6 (cont'd)

Measures	Incentives	Status of the programme, based on relevant laws, regulations, rules, circulars, or WTO notifications
Fund for high technology R&D for packaging industry	Financial appropriation	1 January 2005 to present
<i>Terminated</i>		
Preferential tax policies for the research and development of enterprises	Preferential tax treatment	Terminated 31 December 2007
Preferential tax policies for enterprises transferring technology	Preferential tax treatment	Terminated 31 December 2007
Exemption of tariff and import VAT for the imported technologies and equipment	Preferential tax treatment	Terminated 31 December 2008
Preferential tax policies for advanced technology enterprises with foreign investment	Preferential tax treatment	Terminated 31 December 2007 <sup>a</sup>
Preferential tax policies for enterprises with foreign investment recognized as high or new technology enterprises established in the State high or new technology industrial development zones	Preferential tax treatment	Terminated 31 December 2007 <sup>a</sup>
Preferential tax policies for enterprises recognized as high or new technology enterprises established in the State high or new technology industrial development zones	Preferential tax treatment	Terminated 31 December 2007 <sup>a</sup>
Fund for optimizing the import and export structure of mechanical and electrical products as well as high-tech products	Financial appropriation	Terminated 31 December 2008
Preferential tax policies for scientific research institutions under transformation	Preferential tax treatment	Terminated 31 December 2007 <sup>a</sup>
Fund for promoting the trade of agricultural, light industry and textile products	Financial appropriation	Terminated 31 December 2008
Preferential tax policies for foreign invested enterprises and foreign enterprises which have establishments or place in China and are engaged in production or business operations purchasing domestically produced equipment	Preferential tax treatment	Terminated 31 December 2007
Preferential tax policies for domestic enterprises purchasing domestically produced equipment for technology upgrading purpose	Preferential tax treatment	Terminated 31 December 2007
Preferential tax treatment for raw copper materials	Preferential tax treatment	Terminated 31 December 2005
Preferential tax treatment for casting and forging products	Preferential tax treatment	Terminated 31 December 2008
Preferential tax treatment to dies products	Preferential tax treatment	Terminated 31 December 2008
Preferential tax treatment to numerically controlled machine tool products	Preferential tax treatment	Terminated 31 December 2008
<b>(d) FDI and regional support</b>		
<i>Currently in force</i>		
Preferential tax policies in the western regions	Preferential tax treatment	Effective for the sectors listed on the Catalogue of Advantageous Industries in Central and Western Regions. Others were abolished before 1 January 2011.
<i>Terminated</i>		
Preferential tax policies for foreign-invested enterprises	Preferential tax treatment	Terminated 31 December 2007
Preferential tax policies for foreign-invested export enterprises	Preferential tax treatment	Terminated 31 December 2007
Preferential tax policies for foreign-invested enterprises engaged in agriculture, forestry or animal husbandry and foreign-invested enterprises established in remote underdeveloped areas	Preferential tax treatment	Terminated 31 December 2007
Preferential tax policies for foreign-invested enterprises engaged in energy, transportation infrastructure projects	Preferential tax treatment	Terminated 31 December 2007 <sup>a</sup>

Table AIII.6 (cont'd)



Measures	Incentives	Status of the programme, based on relevant laws, regulations, rules, circulars, or WTO notifications
Preferential tax policies for Chinese-foreign equity joint ventures engaged in port and dock construction	Preferential tax treatment	Terminated 31 December 2007 <sup>a</sup>
Preferential tax policies for enterprises with foreign investment in the border cities	Preferential tax treatment	Terminated 31 December 2007
Preferential tax policies for enterprises with foreign investment established in Special Economic Zones (excluding Shanghai Pudong area)	Preferential tax treatment	Terminated 31 December 2007 <sup>a</sup>
Preferential tax policies for enterprises with foreign investment established in the costal economic open areas and in the economic and technological development zones	Preferential tax treatment	Terminated 31 December 2007 <sup>a</sup>
Preferential tax policies for enterprises with foreign investment established in Pudong area of Shanghai	Preferential tax treatment	Terminated 31 December 2007 <sup>a</sup>
Preferential tax policies for enterprises with foreign investment established in the Three Gorges of Yangtze River Economic Zone	Preferential tax treatment	Terminated 31 December 2007 <sup>a</sup>
Preferential tax policies for enterprises in Binhai New Area of Tianjin	Preferential tax treatment	Terminated 31 December 2007
Preferential tax policies for enterprises established in the poverty stricken areas	Preferential tax treatment	Terminated 31 December 2007
<b>(e) Assistance to agriculture and forestry</b>		
<i>Currently in force</i>		
Preferential tax policies for enterprises engaged in projects of preliminary processing of agricultural, forest, animal and fishery products	Preferential tax treatment	1 January 2008 to present
Fund for specialized economic cooperatives of farmers	Financial appropriation	1 January 2003 to present
Fund for subsidizing the training of rural migrant labour force	Financial appropriation	1 January 2004 to present
Fund for popularization of agricultural technologies	Financial appropriation	1 January 1999 to present
Fund for subsidizing transformation of agricultural technology	Financial appropriation	1 January 2001 to present
Subsidy for promoting superior strains and seeds	Financial appropriation	1 January 2002 to present
Subsidy for purchasing agricultural machinery and tools	Financial appropriation	1 January 1999 to present
Comprehensive subsidies for agricultural inputs	Financial appropriation	1 January 2006 to present
Direct subsidy to farmers	Financial appropriation	1 January 2004 to present
Fund for agricultural comprehensive development	Financial appropriation	1 January 1988 to present
Preferential tax treatment for imported products for the purpose of replacing the planting of poppies	Preferential tax treatment	1 January 2000 to present
Fund for interest discount of loans for the purpose of agricultural water-saving irrigation	Financial appropriation	1 January 1997 to present
Subsidy for national key construction projects on water and soil conservation	Financial appropriation	1 January 1983 to present
Subsidy for prevention from and control of pest and disease in forestry	Financial appropriation	1 January 1980 to present
Subsidy for grass seed sowing by airplanes	Financial appropriation	1 January 1984 to present
Preferential tax policies for enterprises of grain or oil reserves	Preferential tax treatment	1 January 1999 to present
Preferential tax policies for the relief grain and disaster relief grain, compensation grain for returning cultivated land to forests and to grassland, and the grain rations for the migrants from the reservoir areas	Preferential tax treatment	1 August 1999 to present

Table AIII.6 (cont'd)

Measures	Incentives	Status of the programme, based on relevant laws, regulations, rules, circulars, or WTO notifications
<b>Terminated</b>		
Preferential tax policies on imports of seeds (seedlings), breeding stock (fowl), fish fries (breeds) and wild animals and plants kept as breeds during the period of the "Eleventh Five-Year Plan"	Preferential tax treatment	Terminated 31 December 2010
Preferential tax policies for the imports of China Grain Reserves Corporation for the purpose of rotation of grain reserves	Preferential tax treatment	Terminated 31 December 2008
Fund subsidizing agricultural industrialization and agricultural products processing	Financial appropriation	Terminated 31 December 2008
Preferential tax policies for key leading enterprises engaged in agricultural industrialization	Preferential tax treatment	Terminated 31 December 2007
Preferential tax policies for the enterprises engaged in forestry	Preferential tax treatment	Terminated 31 December 2007
Preferential tax treatment for poultry industry	Preferential tax treatment	Terminated 31 December 2006
Interest discount for poultry industry	Financial appropriation	Terminated 31 December 2006
Preferential tax policies on imports of seeds (seedlings), breeding stock (fowl), fish fries (breeds) and non-profit-making wild animals and plants kept as breeds during the period of the "Tenth Five-Year Plan"	Preferential tax treatment	Terminated 31 December 2005
Fund for training of youngster farmers on science and technology	Financial appropriation	Terminated 31 December 2008
<b>(2) Information from other official and public sources<sup>b</sup></b>		
<b>(a) Assistance to the energy sector and to environmental protection undertakings</b>		
<b>Currently in force</b>		
Full Purchase on Electricity Generated by Renewable Energy	Government guarantee	Effective 1 September 2007
Price Surcharge of Electricity Generated by Renewable Energy	Grants and other financial assistance by the State	Effective 11 January 2007
Golden Sun Demonstration Project	Grants and other financial assistance by the State	Effective 16 July 2009
Demonstration Project of Optoelectronic Application Buildings	Grants and other financial assistance by the State	Effective 23 March 2009
Energy Regeneration and Utilization of Straws and Stalks	Grants and other financial assistance by the State	Effective 30 October 2008
Promotion of high-efficient energy-saving products	Grants and other financial assistance by the State	Effective 18 May 2009
<b>(b) Assistance to research and development, support for specific industries, assistance for industrial development</b>		
<b>Currently in force</b>		
Foreign Trade Development Fund	Grants and other financial assistance by the State	Effective 20 February 1996
Promotion of new-energy and energy-saving automobiles	Grants and other financial assistance by the State	Effective 26 May 2010
Domestic appliance to countryside	Grants and other financial assistance by the State	Effective 1 December 2007
<b>Terminated</b>		
Automobiles to countryside	Grants and other financial assistance by the State	Terminated 1 January 2011

a The scheme terminated on 31 December 2007, but for eligible enterprises registered before 16 March 2007, the preference was "grandfathered" for a five-year transition period.

b The Secretariat identified relevant measures from various sources; it is not in a position to verify their existence or extent.

Source: WTO documents G/SCM/N/155/CHN, G/SCM/N/186/CHN, 21 October 2011 and G/SCM/Q2/CHN/42, 11 October 2011; China's various laws, regulations, rules, and circulars; and other official and public sources.

**Table AIII.7**  
**China's membership of international intellectual property rights conventions, 2011**

Convention	Status	Date of accession
Berne Convention for the Protection of Literary and Artistic Works	In force	15 October 1992
Budapest Treaty on the International Recognition of the Deposit of Micro-Organisms for the Purposes of Patent Procedures	In force	1 July 1995
Convention Establishing WIPO	In force	3 June 1980
Convention for the Protection of Producers of Phonographs Against Unauthorized Duplication of their Phonograms	In force	30 April 1993
International Convention for the Protection of New Varieties of Plants (UPOV Convention)	In force	23 April 1999
Locarno Agreement Establishing an International Classification for International Design	In force	19 September 1996
Madrid Agreement Concerning International Registration of Marks	In force	4 October 1989
Protocol Relating to the Madrid Agreement concerning the International Registration of Marks	In force	1 December 1995
Nice Agreement Concerning the International Classification of Goods and Services for the Purpose of the Registration of Marks	In force	9 August 1994
Paris Convention for the Protection of Industrial Property	In force	19 March 1985
Patent Co-operation Treaty	In force	1 January 1994
Singapore Treaty	Signature	
Strasbourg Agreement Concerning International Patent Classification	In force	19 June 1997
Trademark Law Treaty (TLT)	Signature	
Washington Treaty on Intellectual Property in respect of Integrated Circuits	Signature	
WIPO Copyright Treaty	In force	9 June 2007
WIPO Performances and Phonograms Treaty	In force	9 June 2007

Source: WIPO online information. Viewed at: [http://www.wipo.int/treaties/en/ShowResults.jsp?country\\_id=38C&start\\_year=ANY&end\\_year=ANY&search\\_what=C&treaty\\_all=ALL](http://www.wipo.int/treaties/en/ShowResults.jsp?country_id=38C&start_year=ANY&end_year=ANY&search_what=C&treaty_all=ALL).

**Table AIV.1**  
**Summarized trade regimes of maritime transport services**

Subsectors <sup>a</sup>	GATS	FTAs	Other preferential treatment	Applied regime
11.A.a [International] Passenger transport CPC 7211	(1) and (2) none  (3)(a) Establishment of a company to fly the Chinese flag: joint venture, with foreign participation limited to 49%, chairman of board of directors and the general manager of the joint venture appointed by the Chinese side.  (3)(b) other forms of commercial, presence: Unbound  (4)(a) and (b) <sup>b</sup> unbound except as in indicated in the horizontal commitments	CHN-NZ, CHN-SGP, CHN-PAK, CHN-PER: same as GATS commitments  CHN-CHL: incorporation of GATS commitments by reference  CHN-ASEAN: no explicit commitments  CEPA HK, CEPA MAC wholly owned enterprises for "other form of commercial presence"	- one MFN exemption with unspecified beneficiaries, through which "The parties concerned may, through bilateral agreement, establish entities to engage in usual business in China either as joint ventures or wholly owned subsidiaries subject to the Chinese laws on joint ventures and on foreign capital enterprises for ships owned or operated by carriers of the parties concerned"	- cabotage reserved to 100% Chinese-owned companies flying the Chinese flag. No waivers granted so far  - Establishment of a company to fly the Chinese flag: as GATS commitments (status quo binding)  - other forms of commercial, presence: wholly owned subsidiaries allowed and numerous but limited to ports  - national treatment for subsidies and lease back shipping funds schemes
11.A.b [International] Freight transport CPC 7212	(1) and (2) liner, bulk and others none  (3)(a) Establishment of a company to fly the Chinese flag: joint venture, with foreign participation limited to 49%, chairman of board of directors and the general manager of the joint venture appointed by the Chinese side  (3)(b) other forms of com, presence: Unbound	CHN-NZ, CHN-SGP, CHN-PAK, CHN-PER: same as GATS commitments  CHN-CHL: incorporation of GATS commitments by reference  CHN-ASEAN: no explicit commitments  CEPA HK, CEPA MAC: - "allowed to use liner vessels to freely move empty containers that they own or rent among ports in mainland China so long as customs formalities are completed "  - wholly owned enterprises for "other form of commercial presence"	- one MFN exemption with unspecified beneficiaries through which "The parties concerned may, through bilateral agreement, establish entities to engage in usual business in China either as joint ventures or wholly owned subsidiaries subject to the Chinese laws on joint ventures and on foreign capital enterprises for ships owned or operated by carriers of the parties concerned."  - member of the UN Code of Conduct for Liner Conferences  - cargo sharing agreements with Algeria, Argentina, Bangladesh, Brazil, Thailand, the United States, Democratic Rep. of Congo (Zaire)	- cabotage reserved to 100% Chinese-owned companies flying the Chinese flag, including for the onward forwarding of international cargo (international relay) and for empty containers  - Establishment of a company to fly the Chinese flag: as GATS commitments (status quo binding)  - other forms of commercial, presence: wholly owned subsidiaries allowed and numerous  - Cargo sharing clause of the UN Code of Conduct for Liner Conferences and bilateral cargo reservation clauses (see previous column) not applied  - no unilateral cargo reservation (including on food aid and on EXIM bank financed cargo)  - national treatment for subsidies and lease back shipping funds schemes

Table AIV.1 (cont'd)

Subsectors <sup>a</sup>	GATS	FTAs	Other preferential treatment	Applied regime
11.A.c Rental of vessels with crew CPC 7213	No commitments	No commitments		<p>When a Chinese company rents a bareboat with foreign nationality, the original certificate of nationality is suspended or cancelled and the Chinese ship registration agency issues a bareboat charter registration certificate and a temporary certificate of Chinese nationality. When a bareboat with Chinese nationality is leased abroad the Chinese ship registration agency will suspend or cancel its Chinese nationality and issue a registration of bareboat charter certificate.</p> <p>Under Rule 12 of Rules for Crew of the People's Republic of China the captain and senior crew on a ship must be of Chinese nationality.</p> <p>Employment of a foreigner as a senior crew member must be approved by the State Maritime Administrative Agency.</p>
11.A.d Maintenance and repair of vessels CPC 8868*	No commitments	No commitments		No applied restrictions
11.A.e Pushing and towing services CPC 7214	No commitments	No commitments		Reserved to 100% Chinese-owned companies with Chinese flag vessels as part of cabotage. However, some individual ports have foreign shareholders which implies the existence of some foreign investment in the area of pushing and towing services.
11.A.f Supporting services for maritime transport CPC 745* <sup>c</sup>	No commitments	No commitments		<p>CPC74510 (harbour and water transport administration service): no restriction as to the number or nature of the company.</p> <p>CPC7452 (pilot and anchor service): when a public pilotage is established in the harbour there is a limit to the number of tug services providers.</p>

Table AIV.1 (cont'd)

Subsectors <sup>a</sup>	GATS	FTAs	Other preferential treatment	Applied regime
				CPC74530 (navigation services): provided by the Chinese Government CPC74540 (vessel salvage services): to undertake salvaging of sunken ships or objects with commercial value in Chinese coastal waters, a foreign firm must sign a joint salvage contract with a Chinese salvage operator or establish a Chinese-foreign salvage cooperative enterprise with a Chinese salvage operator. No foreign participation is allowed when the owners of sunken ships and objects engage in the salvage themselves or invite salvage agencies to undertake the salvage in Chinese coastal waters or when the salvage concerns sunken warships and weaponry with important military value and sunken ships and objects confirmed as cultural relics
Maritime cargo handling	(1) unbound* (2) none (3) only JV with foreign majority allowed	CHN-NZ, CHN-SGP, CHN-PAK, CHN-PER: same as GATS commitments CHN-CHL: incorporation of GATS commitments by reference CHN-ASEAN: no explicit commitments CEPA HK, CEPA MAC: wholly owned enterprises		Wholly owned subsidiaries allowed and numerous
[Maritime] storage and warehousing	See Table on auxiliary services to all modes of transport	See Table below on auxiliary services to all modes of transport	See Table on auxiliary services to all modes of transport	See Table on auxiliary services to all modes of transport
[Maritime] customs clearance services	(1) unbound* (2) none (3) only JV with foreign majority allowed	CHN-NZ, CHN-SGP, CHN-PAK, CHN-PER: same as GATS commitments CHN-CHL: incorporation of GATS commitments by reference CHN-ASEAN, no explicit commitments		JV with majority ownership allowed except for HK and MAC for which 100% wholly owned companies are permitted

Table AIV.1 (cont'd)

Subsectors <sup>a</sup>	GATS	FTAs	Other preferential treatment	Applied regime
Container stations and depots (including inland containers depots)	(1) unbound* (2) none (3) only JV with foreign majority allowed	CEPA HK, CEPA MAC: wholly foreign owned enterprises to operate international shipping container depots and stations, or provide shipping agency services for the vessels that are owned or operated by their parent companies, including customs clearance and inspection declaration  CHN-NZ, CHN-SGP, CHN-PAK, CHN-PER: same as GATS commitments  CHN-CHL: incorporation of GATS commitments by reference  CHN-ASEAN: no explicit commitments  CEPA HK, CEPA MAC: wholly owned subsidiaries		Wholly owned subsidiaries allowed and numerous
Maritime agency services	(1) and (2) none (3) only JV with foreign share limited to 49%	CHN-NZ, CHN-SGP, CHN-PAK, CHN-PER: same as GATS commitments  CHN-CHL: incorporation of GATS commitments by reference  CHN-ASEAN: no explicit commitments    CEPA HK, CEPA MAC: wholly foreign-owned shipping companies to provide daily agency services for the shipping transport between Hong Kong and Class II ports in Guangdong Province operated by vessels of Chinese mainland that are leased by their parent companies. For enterprises providing third-party public ship agency services, Chinese mainland/Chinese side is still required to hold majority share		Classified in the "restricted" category in the 2011 investment guidance catalogue with the indication "Chinese should hold the majority of the shares" - equity JV or contractual JV limited to 49% except for HK and MAC (see "FTAs" column)
[Maritime] freight forwarding services	See Table on auxiliary services to all modes of transport	See Table on auxiliary services to all modes of transport	See Table on auxiliary services to all modes of transport	See Table on auxiliary services to all modes of transport

Table AIV.1 (cont'd)

Subsectors <sup>a</sup>	GATS	FTAs	Other preferential treatment	Applied regime
Access to use of on reasonable and non-discriminatory terms and conditions to port services <sup>d</sup>	Additional commitments on all nine services	CHN-NZ, CHN-SGP, CHN-PAK, CHN-PER: same as GATS commitments CHN-CHL: incorporation of GATS commitments by reference CHN-ASEAN, CEPA HK, CEPA MAC: no explicit commitments		- compulsory pilotage for foreign vessels and national treatment on pilotage fees - Under relevant provisions of the Interim Regulation of the People's Republic of China on Ship Tonnage Tax, the tonnage tax is levied at a preferential tax rate for ships from a countries or regions that sign a treaty with China or an agreement containing MFN articles on ship taxes
Access to/use of multimodal transport services <sup>e</sup>	No additional commitments	No additional commitments	-	No restrictions on the rent, hire or charter of trucks, railway carriages, ships or barges and related equipment, for the purpose of onward forwarding of international cargoes carried by sea, or access to and use of these forms of transport services for the purpose of providing multimodal transport services
<i>Sui generis</i> services	No commitments	CEPA HK, CEPA MAC: wholly foreign-owned enterprises for ship handling, container leasing, tugging ship surveys, ship management and chartering (only between Hong Kong or Macao and Guangdong province for the latter)		- wholly foreign-owned enterprise allowed to offer routine services for vessels owned or operated by the investor - equity JV or contractual JV limited to 49% for international ship management services

a Composite CPC/maritime model schedule classification.

b I.e. 4(a) ship's crew and 4(b) key personnel employed by commercial presence as defined under mode (3)(b) above.

c I.e. port and waterways operations, pilotage and berthing services, navigation aids services, vessels salvage and refloating services, other services including cleaning, disinfecting, fumigating and vermin control.

d More precisely: (1) pilotage, (2) towing and the tug assistance, (3) provisioning, fuelling and watering, (4) garbage collecting and ballast waste disposal, (5) port captain's services, (6) navigation aids, (7) shore-based operational services essential to ship operations including communications, water and electrical supplies, (8) emergency repair facilities, and (9) anchorage, berth and berthing services.

e More precisely: ability to rent, hire or charter trucks, railway carriages, ships or barges and related equipment, for the purpose of onward forwarding of international cargoes carried by sea, or have access to and use of these forms of transport services for the purpose of providing multimodal transport services.

Note: CPC means the United Nations Provisional Central products Classification. Restrictions to national treatment are indicated only to the extent that they differ from or add specific restrictions to market access restrictions. Mode 4 commitments are indicated only if they differ from the standard entry "unbound except as indicated in the horizontal commitments". Entries have sometimes been summarized so as to fit within the tables but their substance has been preserved and the text checked by the examined member. "Unbound\*" means unbound due to lack of technical feasibility. A Classification heading followed by an asterisk (e.g. CPC51310\*) means "part of" the heading, unless otherwise explicitly stated. The nomenclature used for the first column of the table is that of WTO document MTN.GNS/W/120.

Source: Compiled by the WTO Secretariat.



**Table AIV.2**  
**Summarized trade regimes of inland waterways transport**

Subsectors	GATS	FTA(1): ASEAN-China, Chile-China, CEPA Macao, China-China, CEPA Hong Kong, China-China	FTA(2): Pakistan-China, Peru-China, Singapore-China, New Zealand-China	Applied regime
11.B.a: Passenger transport	No commitments	No commitments	No commitments	Reserved to 100% Chinese-owned companies flying the Chinese flag, catering contracts possible for cruise services
11.B.b: Freight transport	(1) only international shipping in ports open to foreign vessels is allowed (2) no restrictions (3) unbound (4) unbound except as indicated in the horizontal commitments	No explicit commitments	(1) only international shipping in ports open to foreign vessels is allowed (2) none (3) unbound (4) unbound except as indicated in the horizontal commitments	- Reserved to 100% Chinese-owned companies flying the Chinese flag, - International shipping in ports open to foreign vessels is allowed - No restrictions for consumption abroad and access to/use barge services
11.B.c: Rental of vessels with crew	No commitments	No commitments	No commitments	Restrictions on the businesses engaged by foreign-funded enterprises or foreign vessels
11.B.d: Maintenance and repair of vessels	No commitments	No commitments	No commitments	Restrictions on the businesses engaged by foreign-funded enterprises or foreign vessels
11.B.e: Pushing and towing services	No commitments	No commitments	No commitments	Restrictions on the businesses engaged by foreign-funded enterprises or foreign vessels
11.B.f: Supporting services for internal waterway transport	No commitments	No commitments	No commitments	Restrictions on the businesses engaged by foreign-funded enterprises or foreign vessels

Note: CPC means the United Nations Provisional Central products Classification. Restrictions to national treatment are indicated only to the extent that they differ from or add specific restrictions to market access restrictions. Mode 4 commitments are indicated only if they differ from the standard entry "unbound except as indicated in the horizontal commitments". Entries have sometimes been summarized so as to fit within the tables but their substance has been preserved and the text checked by the examined member. "Unbound\*" means unbound due to lack of technical feasibility. A Classification heading followed by an asterisk (e.g. CPC51310\*) means "part of" the heading, unless otherwise explicitly stated. The nomenclature used for the first column of the table is that of WTO document MTN.GNS/W/120.

Source: Compiled by the WTO Secretariat.

**Table AIV.3**  
**Summarized trade regimes of air transport services**

Subsectors	GATS	FTAs	Other preferential treatment	Applied regime
<i>A. Subsectors explicitly listed by the GATS air transport annex</i>				
a. Aircraft repair and maintenance	(1) Unbound* (2) None (3) only in the form of JV, with the Chinese side holding the majority of the controlling shares or in a dominant position, economic needs test (ENT) for licences	CHN-PAK, CHN PER: same as GATS CHN-ASEAN, CHN-CHL, CHN-NZ, CHN-SGP: (1) Unbound* (2) None (3) only in the form of JV, with the Chinese side holding the majority of the controlling shares or in a dominant position (i.e. no ENT) CHN-HK, CHN-MAC: wholly owned enterprises		Same as GATS commitments
b. Computer reservation services	(1)(a) Foreign computer reservations system, when having agreements with Chinese aviation enterprises and Chinese computer reservation system, may provide services to Chinese aviation enterprises and Chinese aviation agents by connecting with Chinese computer reservation system (b) Foreign computer reservation system may provide services to representative offices and sales offices established in the destination cities in China by foreign aviation enterprises which have the right to engage in business according to the bilateral aviation agreements (c) Direct access to and use of foreign computer reservation system by Chinese aviation enterprises and agents of foreign aviation enterprises are subject to approval of the General Administration of Civil Aviation of China (CAAC) (2) None (3) Unbound	CHN-CHL: (1)(a) Foreign computer reservation systems may provide services to Chinese aviation enterprises and aviation agents by connecting through a Chinese computer reservation system (an agreement with the Chinese computer reservation system is still required but not one with the Chinese aviation enterprises) (b) Direct access to and use of foreign computer reservation systems by aviation agents are subject to the approval of the CAAC (2) None (3) JV with foreign ownership limited to 49% and subject to an economic needs test (ENT) CHN-PAK, CHN-PER: Same as GATS CHN-ASEAN, CHN-NZ, CHN-SGP: Same as GATS for (1) and (2)/(3) JV with foreign ownership limited to 49% and subject to an economic needs test (ENT) CHN-HK, CHN-MAC: JV, the Chinese side shall have controlling shares, economic needs test for the establishment of the JV		- Foreign computer reservation system may provide services to representative offices and sales offices established in the destination cities in China by foreign aviation enterprises, which have the right to engage in business according to the bilateral aviation agreements - No applications received in practice so far for the direct access committed under (1)(c) of the GATS commitments - No application yet for JV committed under mode 3 in the FTA with ASEAN, CHL, NZ and SGP - New draft regulation in discussion, no information available yet

Table AIV.3 (cont'd)

Subsectors	GATS	FTAs	Other preferential treatment	Applied regime
c. Selling and marketing of air transport services	No commitments	CHN-ASEAN, CHN-NZ, CHN-SGP, CHN-PAK, CHN-PER: No commitments CHN-CHL: (1) None (2) None (3) Foreign enterprises, which are designated to operate as per bilateral air services agreements can establish offices in China CHN-HK, CHN-MAC: the complete regime is described in footnote <sup>a</sup>	Foreign enterprises which are designated to operate as per bilateral air services agreements can establish offices in China	Foreign enterprises which are designated to operate as per bilateral air services agreements can establish offices in China
<i>B. Other aviation subsectors</i>				
d. Airport operation services	-	CHN-CHL: (1) None (2) None (3) Unbound CHN-HK, CHN-MAC: services suppliers allowed to provide, in the form of cross-border supply, contractual joint venture, equity joint venture or wholly owned operations, contract management services for small and medium airports. The period of validity of the contract should not exceed 20 years. Services suppliers allowed to provide to provide, in the form of cross-border supply, consumption abroad, contractual joint venture, equity joint venture or wholly owned operations, airport management training and consultation services		The 2007 and 2011 catalogues include the construction and operation of civil airports in the "encouraged" category, with the condition that the total investment ratio of the Chinese investors in foreign-invested projects should be greater than any individual foreign investors
e. Ground handling services	-	CHN-CHL: (1) None (2) None (3) JV with foreign ownership limited to 49% CHN-HK; CHN-MAC: wholly owned operations allowed for seven types of air transport ground services: agency services; loading and unloading control, communication, and departure control system services; unit load devices management services; passenger and baggage services; cargo and mail services; ramp services and aircraft services	Some bilateral air services agreements have preferential ground handling clauses e.g. China-US	- New draft regulation in discussion, no information available yet

Table AIV.3 (cont'd)

Subsectors	GATS	FTAs	Other preferential treatment	Applied regime
f. Specialty air services	-	CHN-CHL: (1) None (2) None (3) Unbound		- General aviation companies for agriculture forest and fishery are classified in the "encouraged" category by the 2011 catalogue but limited to equity or contractual JV  - general aviation companies engaging in photographing, prospecting and industry are classified in the "restricted" category by the 2011 catalogue with the condition that the Chinese partner shall hold the majority of the shares
g. passenger and freight transportation services	-	-	Bilateral air services agreements	Air transportation companies are classified in the "encouraged" category by the 2007 catalogue with the condition that the Chinese partner shall hold the majority of the shares

a (1) Macao/Hong Kong air transport sales agencies are allowed to set up wholly owned air transport sales agencies in the Mainland, (2) the registered capital requirement will be the same as that for Mainland enterprises, (3) when applying for setting up wholly owned, equity joint venture or contractual joint venture air transport sales agencies in the Mainland are allowed to submit the economic guarantee provided by the Mainland incorporated banks or guarantee companies recommended by the China Air Transport Association, or to be guaranteed by Macao/Hong Kong banks, on the condition that such guarantee will be replaced by the economic guarantee provided by the Mainland incorporated banks or guarantee companies recommended by the China Air Transport Association within a specified period of time after the Macao service suppliers' applications have been approved by the Mainland, (4) they are not required to go through the substantive preliminary vetting by local representative offices of the China Air Transport Association; the application materials can be submitted directly to the China Air Transport Association for examination, (5) they are allowed to operate air transport sales agency services in the domestic routes in the Mainland, in the form of wholly owned enterprises, equity joint venture or contractual joint venture.

Note: CPC means the United Nations Provisional Central products Classification. Restrictions to national treatment are indicated only to the extent that they differ from or add specific restrictions to market access restrictions. Mode 4 commitments are indicated only if they differ from the standard entry "unbound except as indicated in the horizontal commitments". Entries have sometimes been summarized so as to fit within the tables but their substance has been preserved and the text checked by the examined member. "Unbound\*" means unbound due to lack of technical feasibility. A Classification heading followed by an asterisk (e.g. CPC51310\*) means "part of" the heading, unless otherwise explicitly stated. The nomenclature used for the first column of the table is that of WTO document MTN.GNS/W/120.

Source: Compiled by the WTO Secretariat.

**Table AIV.4**  
**Summarized trade regimes of selected railways transport services and related construction services**

Subsectors	GATS	FTAs	Other preferential treatment	Applied regime
11.F.a Passenger transportation CPC 7111	No commitments	CHN-HK: Urban and suburban passenger transportation (CPC 71112): HK services suppliers are allowed to construct, operate and manage the Shenzhen metro line 4 project in Shenzhen in the form of wholly owned operations		Urban and suburban passenger rail transport: - construction and management of metro and city light rail are classified by the 2011 investment catalogue in the "encouraged" category with the condition that the Chinese partner shall hold the majority of the shares
11.F.b. Freight transportation CPC 7112	(1) and (2) None (3) Wholly owned subsidiaries permitted	CHN-CHL: same as GATS by cross-reference  CHN-ASEAN, CHN-NZ, CHN-SGP, CHN-PAK, CHN-PER: same as GATS  CHN-HK, CHN-MAC: no explicit commitments		- draft new regulation in discussion Interurban passenger and freight rail transport services: Centrally dispatched network. Most of the lines are constructed and managed by the Ministry of Railways but for some lines (about 10%) there are joint ventures with foreign interests <sup>a</sup> ensuring both the construction and the operations of the lines - "railways passenger transportation companies" are classified in the "restricted" category in the investment catalogue with the condition that the Chinese partner shall hold the majority of the shares
Part of 3.B general construction work for civil engineering :  - part of CPC 51310 general construction work for civil engineering for [highways, streets, roads], railways [and airfield runways]  - part of CPC 5320 general construction work for civil engineering for [highways, streets, roads], railways for bridges, elevated highways, tunnels and subways	(1) Unbound* (2) None (3) Wholly foreign-owned enterprises permitted. Those wholly foreign-owned enterprises can only undertake the following four types of construction projects:  1. Construction projects wholly financed by foreign investment and or grants  2. Construction projects financed by loans of international financial institutions and awarded through international tendering according to the terms of loans  3. Chinese-foreign jointly constructed projects with foreign investments equal to or more than 50% and Chinese-foreign jointly constructed projects with foreign investment less than 50% but technically difficult to be implemented by Chinese construction companies alone	CHN-ASEAN, CHN-CHL, CHN-NZ, CHN-SGP, CHN-PAK, CHN-PER: same as GATS  CHN-MAC: see complete regime in footnote <sup>b</sup>		- construction of railways, the construction of "grid of national trunk railways" and "feeder railways, local railways and related bridges, tunnels and ferries facilities", the "construction and management of metro city light rail" and the "comprehensive maintenance of infrastructure of high speed railways, special railway line and intercity line" in the "encouraged" category for foreign investments

Table AIV.4 (cont'd)

Subsectors	GATS	FTAs	Other preferential treatment	Applied regime
	<p>4. Chinese invested construction projects, which are difficult to be implemented by Chinese construction enterprises alone can be undertaken by Chinese and foreign construction enterprises with the approval of provincial government</p>			<p>In all cases the condition is that the Chinese partner shall hold the majority of the shares except for the "construction of feeder railways, local railways and related bridges, tunnels and ferries facilities" where equity joint-ventures and contractual joint-ventures are allowed without a ceiling of foreign participation</p> <p>Those companies procure by tendering centrally regulated fees for access rights on tracks owned by the private companies</p> <ul style="list-style-type: none"> <li>- private companies debts are not guaranteed by the Chinese State and according to the Ministry of Railways all lines are profitable,</li> <li>- the State does not provide subsidies to any for the private companies</li> <li>- Three railways companies are publicly listed</li> </ul>

a There has also been foreign investment in rail container yards but these are classified under services auxiliary to all modes of transport and not under railways transport services.

b Excerpts relating to construction commitments from both CEPAs and their supplements "(1) for construction enterprises set up in the Mainland by Macao/Hong Kong service suppliers, the performance of both the enterprises in Macao/Hong Kong and in the Mainland is taken into account in assessing the qualification of the construction enterprises in the Mainland. However, the number of managerial and technical staff in the construction enterprises in the Mainland will be the actual number of staff working there, (2) to allow Macao/Hong Kong service suppliers to wholly acquire construction enterprises in the Mainland, (3) Construction enterprises in the Mainland set up with investment by Macao/Hong Kong service suppliers are exempted from foreign investment restrictions when undertaking Chinese-foreign joint construction projects, (4) construction enterprises in the Mainland with investment by Macao/Hong Kong service suppliers will follow the relevant laws and regulations in the Mainland for application of construction qualification certificates. Those which have acquired such certification are permitted in accordance with laws to bid for construction projects in all parts of the Mainland, (5) for construction enterprises set up in the Mainland by Macao/Hong Kong service suppliers, the construction contract performance of the enterprises both in the Mainland and outside the Mainland is taken into account in assessing the qualification of the construction enterprises in the Mainland. The total managerial and technical staff of the construction enterprises in the Mainland should be based on the actual employed staff in the Mainland for the purpose of proceeding qualification assessment, (6) there will be no restriction on the proportion of Macao/Hong Kong permanent residents being project managers approved by the qualification administration authorities for construction enterprises in the Mainland set up by Macao/Hong Kong service suppliers, (7) Macao/Hong Kong service suppliers who have already obtained the certificate of approval for establishment of enterprises with investment of Chinese Taipei, Hong Kong and Macao in the Mainland but have not yet obtained the construction enterprise qualification certificate may apply, before 1 July 2005, for a certificate for undertaking single construction project based on their signed construction contract and "Construction Qualification Certificate for Chinese Taipei, Hong Kong and Macao Enterprise". Subject to the preliminary vetting and agreement of construction administration department at provincial level, the application will be processed by the Ministry of Construction, (8) the residency requirement is waived for Macao/Hong Kong permanent residents employed as engineering technical staff and economic managerial staff in construction enterprises in the Mainland set up by Macao/Hong Kong service suppliers."

For Hong Kong only: (1) from the signing date of this agreement and before promulgation of the new "Standards for the Qualifications of Construction Enterprises", the recognition policy of the then Ministry of Construction for Hong Kong Project Managers concerning the qualification assessment of Hong Kong-invested construction enterprises with Mainland will remain unchanged. The recognition of Hong Kong Project Managers will remain valid for the purpose of qualification administration of such enterprises employing them originally, (2) after promulgation of the new "Standards for the Qualifications of Construction Enterprises", the originally recognized Hong Kong Project Managers will be allowed to continue to act as Project Managers of projects that they contracted or have commenced construction before promulgation of the standards, until completion.

Note: CPC means the United Nations Provisional Central products Classification. Restrictions to national treatment are indicated only to the extent that they differ from or add specific restrictions to market access restrictions. Mode 4 commitments are indicated only if they differ from the standard entry "unbound except as indicated in the horizontal commitments". Entries have sometimes been summarized so as to fit within the tables but their substance has been preserved and the text checked by the examined member. "Unbound\*" means unbound due to lack of technical feasibility. A Classification heading followed by an asterisk (e.g. CPC51310\*) means "part of" the heading, unless otherwise explicitly stated. The nomenclature used for the first column of the table is that of WTO document MTN.GNS/W/120.

*Source:* Compiled by the WTO Secretariat.

Table AIV.5  
Summarized trade regimes of road transport

Road transport services – subsectors	GATS	FTAs	Other preferential treatment	Applied regime
11.F.a: Passenger transportation services	No commitments	<p>CHN-ASEAN, CHN-SGP, CHN PAK, CHN-PER:</p> <p>CPC7213 Interurban regular transportation: (1) and (2) unbound, (3) only in the form of joint ventures, with foreign investment limited to 49% and economic needs test required + at least one of the investors must have more than five years' experience in the sector within China + the duration of the joint venture shall not exceed 12 years but can be prolonged to 20 if more than 50% of the registered capital has been used in the construction of passenger terminals</p> <p>(4) unbound except as indicated in the horizontal commitments</p> <p>CHN-CHL, CHN-NZ: no commitments</p> <p>CHN-HKC, CHN-MAC: at least one of the investors must have more than five years' experience in the sector within China</p> <p>wholly owned foreign subsidiaries allowed to provide road passenger transport services in the western areas of the Mainland of China</p> <p>right to set up joint venture to provide interurban regular passenger transportation</p> <p>right to provide direct passenger bus services between Hong Kong or Macao and nine provinces,</p> <p>right to set up wholly owned enterprises in Mainland cities to provide passenger public transport and hire car services in those cities</p>	<p>international road transport agreements (with Kazakhstan, Kyrgyz Republic, Russia, Mongolia, Uzbekistan, Tajikistan, Democratic People's Republic of Korea, Pakistan, Nepal, Laos, Viet Nam) sharing 50/50 bilateral quotas defined annually</p> <p>Three plurilateral agreements<sup>a</sup>:</p> <ul style="list-style-type: none"> <li>- China Kyrgyz Republic and Uzbekistan, (not yet implemented)</li> <li>- China, Kazakhstan, Pakistan and the Kyrgyz Republic</li> <li>- Cross-Border Transport Agreement of the Great Mekong Sub-Region (CBTA-GMS) China, Laos, Viet Nam Thailand, Cambodia and Myanmar</li> </ul>	<p>Only joint ventures + at least one of the main investors must be an enterprise that has been engaging in the business of road passenger transport for over five years, +, the share of foreign investment shall be limited to 49%, + 50% of the registered capital shall be used in the construction or reconstruction of the infrastructure of passenger transport + the vehicles used shall be of the middle or upper level, + the duration of the joint venture shall not exceed 12 years but can be prolonged to 20 if more than 50% of the registered capital has been used in the construction of passenger terminals</p> <p>- no specific regulation or mention in the investment catalogue for urban road passenger transport</p>

Table AIV.5 (cont'd)



Road transport services – subsectors	GATS	FTAs	Other preferential treatment	Applied regime
11.F.b: Freight transportation	(1) and (2) none  (3) wholly owned foreign subsidiaries are permitted  (4) unbound except as indicated in the horizontal commitments	(1) and (2) none  (3) wholly owned foreign subsidiaries are permitted  (4) unbound except as indicated in the horizontal commitments	11 international road transport agreements (with Kazakhstan, Kyrgyz Republic, Russia, Mongolia, Uzbekistan, Tajikistan, Democratic People's Republic of Korea, Pakistan, Nepal, Laos, Viet Nam) sharing 50/50 bilateral quotas defined annually  Three plurilateral agreements <sup>a</sup> :  - China Kyrgyz Republic and Uzbekistan,  - China, Kazakhstan, Pakistan and the Kyrgyz Republic  - Cross-Border Transport Agreement of the Great Mekong Sub-Region (CBTA-GMS) China, Laos, Viet Nam Thailand, Cambodia and Myanmar	Investment in cross-border automobile transportation companies are classified in the "restricted" category by the 2011 <i>Catalogue for the Guidance of Foreign Investment Industries</i>  The duration of the joint venture shall not exceed 12 years but can be prolonged to 20 if more than 50% of the registered capital has been used in the construction of goods terminals  - Wholly owned subsidiaries permitted
11.F.c: Rental of commercial vehicles with operators	No commitments	No commitments		China is currently formulating laws and regulations regarding the car rental industry
11.F.d: maintenance and repair of road transport equipment	No commitments	CHN-ASEAN, CHN-SGP, CHN-PAK,CHN-NZ: (1) and 2): none, (3) wholly owned subsidiaries permitted  CHN-HK, CHN-MAC: free establishment of repair stations in Guangdong province subject to the approval of the provincial authorities  CHN-CHL,CHN-PER: no commitments		Wholly owned subsidiaries permitted
11.F.e: Supporting services for road transport	No commitments	No commitments except CHN-HK and CHN-MAC free establishment of passenger station in Guangdong province subject <sup>b</sup> to the approval of the provincial authorities		At present China does not impose government mandatory measures on fee- or contract-based maintenance and minor repair service for business vehicles

a For more elements on those plurilateral agreements see WTO document S/C/W/324, pp. 37-38.

b The CEPAs with Hong Kong and Macao SARs contain commitments on "road freight transport station (depot)" but these services are classified in another category than supporting services for road transport (services auxiliary to all modes of transport). The same goes for "driver training" commitments (education services). However bus station/passenger terminal services are classified by the CPC as supporting services for road transport.

Note: CPC means the United Nations Provisional Central products Classification. Restrictions to national treatment are indicated only to the extent that they differ from or add specific restrictions to market access restrictions. Mode 4 commitments are indicated only if they differ from the standard entry "unbound except as indicated in the horizontal commitments". Entries have sometimes been summarized so as to fit within the tables but their substance has been preserved and the text checked by the examined member. "Unbound\*" means unbound due to lack of technical feasibility. A Classification heading followed by an asterisk (e.g. CPC51310\*) means "part of" the heading, unless otherwise explicitly stated. The nomenclature used for the first column of the table is that of WTO document MTN.GNS/W/120.

*Source:* Compiled by the WTO Secretariat.

**Table AIV.6**  
**Summarized trade regimes of services auxiliary to all modes of transport**

Subsectors	GATS	FTAs	Other preferential treatment	Applied regime
11.h.a. Cargo handling services (CPC741)	No commitments except for maritime (see maritime Table above)	No commitments except for maritime (see maritime Table above)		Quantitative limitation via the granting of licences by the Government
11.H.b. Storage and warehousing (CPC 742)	(1) Unbound (2) None (3) wholly owned foreign subsidiaries permitted	CHN-ASEAN, CHN-NZ, CHN-SGP, CHN-PAK, CHN-PER: same as GATS commitments  CHN-CHL: incorporation of GATS commitments by reference  CHN-HK, CHN-MAC: wholly owned enterprises and national treatment for minimum registered capital		"Construction and management of storage facilities relating to transportation services" are classified in the "encouraged" category of the 2011 <i>Catalogue for Guidance of Foreign Investment Industries</i>  Wholly owned subsidiaries permitted
11.H.c. Freight transport agency (CPC 748)	"freight forwarding agency services (CPC 748-749) excluding freight inspection but including	CHN-ASEAN, CHN-NZ, CHN-SGP, CHN-PAK, CHN-PER: same as GATS commitments		Wholly foreign owned subsidiaries permitted
11.H.d. Other services auxiliary to all modes of transport (CPC 749)	NVOCC <sup>a</sup> : (1) None (2) None (3) Wholly foreign owned subsidiaries permitted	CHN-CHL: incorporation of GATS commitments by reference  CHN HK, CHN MAC: wholly owned enterprises for freight forwarding (+ national treatment for minimum registered capital and right to set up branch offices upon full payment of registered capital) and for NVOCC		

a Non-vessel operating common carrier.

Note: CPC means the United Nations Provisional Central products Classification. Restrictions to national treatment are indicated only to the extent that they differ from or add specific restrictions to market access restrictions. Mode 4 commitments are indicated only if they differ from the standard entry "unbound except as indicated in the horizontal commitments". Entries have sometimes been summarized so as to fit within the tables but their substance has been preserved and the text checked by the examined member. "Unbound\*" means unbound due to lack of technical feasibility. A Classification heading followed by an asterisk (e.g. CPC51310\*) means "part of" the heading, unless otherwise explicitly stated. The nomenclature used for the first column of the table is that of WTO document MTN.GNS/W/120.

Source: Compiled by the WTO Secretariat.

**Table AIV.7**  
**Summarized trade regimes of tourism and travel-related services**

Subsectors	GATS	FTAs	Other preferential treatment	Applied regime
9.A. Hotels and restaurants including catering CPC 641-643	(1) and (2) none (3) wholly foreign owned subsidiaries permitted (4) foreign managers, specialists including chefs and foreign executives who have signed contracts with joint-venture hotels and restaurants shall be permitted to provide services in China	CHN-ASEAN: No commitments CHN-CHL: GATS commitments incorporated by reference CHN-NZ, CHN-SGP, CHN-PAK, CHN-PER CHN-HK, CHN-MAC: same as GATS		Wholly owned subsidiaries permitted
9.B. Travel agencies and tour operators services CPC 7471	Market access: (1) and (2) none (3) wholly foreign owned subsidiaries allowed, no restrictions on branching and national treatment on registered capital National treatment: (1) and (2) none (3) None except that joint ventures or wholly owned travel agencies and tour operators are not permitted to engage in the activities of Chinese travelling abroad and to Hong Kong, China, Macao, China and Chinese Taipei	CHN-ASEAN: No commitments CHN-CHL same as GATS + business scope limitations to (a) travel and hotel accommodation services which can be made directly with transportation and hotel operators in China covering such operations (b) travel services and hotel accommodation services for domestic travellers, which can be made directly with transportation and hotel operators in China covering such operations CHN-NZ and CHN-SGP: same as GATS CHN-PAK, CHN-PER: Market access: (1), (2) and (3) none National treatment: Same as GATS CHN-HK, CHN-MAC Travel agents from HK/MAC established in nine provinces and the municipalities of Beijing and Shanghai may organize group tours to HK and MAC respectively - for HK and MAC travel agencies hoping to develop business in Guangdong Province, the National Tourism Administration and the Ministry of Commerce have entrusted Guangdong Provincial Tourism Administration and the Department of Foreign Trade and Economic Cooperation for acceptance and approval		- pilot programme to allow foreign travel agencies to engage in outbound tourism (three foreign travel agencies already designated) - wholly foreign-owned subsidiaries allowed, no restrictions on branching and national treatment on registered capital - Approved destination status (ADS) required for countries wishing to receive outbound Chinese tourist groups

Table AIV.7 (cont'd)

Subsectors	GATS	FTAs	Other preferential treatment	Applied regime
9.C. Tourist guides services CPC 7472	No commitments	No commitments except for CHN-HK and CHN-MAC:  HK and MAC permanent residents with Chinese citizenship may take the "Mainland Qualification Examination for Tourist Guide"  MAC/HK permanent residents with Chinese citizenship are allowed to obtain tour group escort licences for outbound group tours and to be employed in the Mainland by international travel agencies that have been authorized to operate outbound tour groups and by Macao and Hong Kong travel agencies that are allowed to operate outbound group tours to Hong Kong and Macao		Reserved to Chinese nationals having obtained the relevant degree
9. D. Other	No commitments	No commitments	-	-

Note: CPC means the United Nations Provisional Central products Classification. Restrictions to national treatment are indicated only to the extent that they differ from or add specific restrictions to market access restrictions. Mode 4 commitments are indicated only if they differ from the standard entry "unbound except as indicated in the horizontal commitments". Entries have sometimes been summarized so as to fit within the tables but their substance has been preserved and the text checked by the examined member. "Unbound\*" means unbound due to lack of technical feasibility. A Classification heading followed by an asterisk (e.g. CPC51310\*) means "part of" the heading, unless otherwise explicitly stated. The nomenclature used for the first column of the table is that of WTO document MTN.GNS/W/120.

Source: Compiled by the WTO Secretariat.

**Table AIV.8**  
**Summarized trade regimes of environmental services<sup>a</sup>**

Subsectors	GATS	FTAs	Other preferential treatment	Applied regime
6.A Sewage services CPC 9401	(1) unbound except for consultation services	CHN-ASEAN,CHN-CHL, CHN-NZ,CHN-SGP,CHN-PAK,		"Construction and management of treatment plants for sewage, garbage, the dangerous wastes (incineration and landfill) and the facilities of environment pollution treatment" are classified by the 2007 investment guidance catalogue in the "encouraged" category.
6.B Refuse disposal services CPC 9402	(2) none (3) only in the form of joint ventures with foreign majority ownership allowed	(1), (2) same as GATS (3) wholly foreign-owned enterprises permitted		
6.C Cleaning services of Exhaust gases CPC 9404		CHN-PER: same as GATS		"Construction and management of sewage nets" are classified in the "restricted" category  - the "rules on the administration of facilities for environmental treatment" guarantee national treatment to foreign investors regarding licensing procedures and BOT schemes for:  - treatment of waste water and of solid waste and the construction of the related facilities
6.D Noise abatement services		CHN-HK, CHN-MAC. Wholly foreign-owned enterprises permitted, delegation to the Guangdong province of the approval of the qualification of HK/MAC suppliers setting up enterprises engaging in environmental pollution control facilities in Guangdong.		
6.E.Nature and Landscape Protection Services (CPC 9406)		CHN-ASEAN,CHN-CHL, CHN-NZ,CHN-SGP: (1), (2) same as GATS (3) wholly foreign-owned enterprises permitted		- energy conserving and emission reduction projects, including clean developments mechanism projects
F. Other Environmental Protection Services (CPC 9409)		CHN-PAK: CHN-PER: same as GATS		- treatment of pollutants and related professional services
G. Sanitation Services (CPC 9403)		CHN-HK, CHN-MAC Wholly foreign-owned enterprises permitted, delegation to the Guangdong province of the approval of the qualification of HK/MAC suppliers setting up enterprises engaging in environmental pollution control facilities in Guangdong		- experimental BOT/concessions schemes in Beijing and Tianjin on the treatment of waste water and solid waste.  - wholly foreign-owned companies allowed (e.g. environmental impact evaluation, waste water and solid waste management)

<sup>a</sup> The order and structure of the subsectors followed are those of the Chinese GATS Commitments and not those of MTN.GNS/W/120. The GATS and FTA Chinese commitments exclude "environmental quality monitoring and pollution source inspection" save for the CEPAs with Hong Kong, China and Macao, China, where partial commitments (regarding qualification) are undertaken for environmental pollution control facilities.

Note: CPC means the United Nations Provisional Central products Classification. Restrictions to national treatment are indicated only to the extent that they differ from or add specific restrictions to market access restrictions. Mode 4 commitments are indicated only if they differ from the standard entry "unbound except as indicated in the horizontal commitments". Entries have sometimes been summarized so as to fit within the tables but their substance has been preserved and the text checked by the examined member. "Unbound\*" means unbound due to lack of technical feasibility. A Classification heading followed by an asterisk (e.g. CPC51310\*) means "part of" the heading, unless otherwise explicitly stated. The nomenclature used for the first column of the table is that of WTO document MTN.GNS/W/120.

Source: Compiled by the WTO Secretariat.