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TRADE POLICY REVIEW

Report by the Secretariat

CHINA

This report, prepared for the second 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 Mr. Masahiro Hayafuji (Tel.: 022 739 5873).

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2. In 2007, real GDP growth in China was 11.4%. The urban unemployment rate fell to 4.0% in 2007. Nonetheless, inflation measured by consumer price index has recently been rising, reaching an eleven-year high of 7.1% in January 2008, largely due to increasing food prices. The consumer price index does not capture the full extent of inflation, however, as some of the prices included in the index are controlled by the Government. Gross domestic investment and gross national saving amounted to 44.9% and 54.4% of GDP, respectively, in 2006. The widening gap between China's saving and investment is reflected in its growing current account surplus, which increased from 7.1% of GDP in 2005 to 11.0% in 2007.

3. Since its previous Review, China's trade and investment reforms have increased China's integration into the world economy. Its total trade in goods alone accounted for about 65% of GDP and 13% of global trade in 2006. China continues to be a major recipient of foreign direct investment (FDI) (together with associated transfers of technology and know-how), most of which is channelled into manufacturing.

4. Since China's previous Trade Policy Review, its monetary policy has largely been driven by the need to mop up excess liquidity, reduce credit growth and investment, and consequently cool economic growth. In addition to “sterilization” of capital inflows and moral suasion ("window guidance"), monetary policy instruments used by the Peoples Bank of China (PBC) during the period under review include increases in interest rates together with higher reserve ratios for banks. More specifically, the PBC has raised the benchmark one-year lending rate seven times (from 5.85% in April 2006 to 7.47% in December 2007) and the required reserve ratio 11 times (since January 2007). However, the PBC’s ability to use interest rates as an effective instrument of monetary policy is relatively limited owing to China's exchange rate regime (which is now classified by the IMF as a "crawling peg").

5. With revenue increasing faster than expenditure since its previous Review, China's fiscal position has strengthened. The fiscal deficit fell from 1.3% of GDP in 2004 to 0.6% in 2007. The sustained decrease in the fiscal deficit has led to a decline in the level of public debt from 17.5% in 2005 to 16.3% of GDP in 2006.

6. Notwithstanding China's rapid growth, its economy is characterized by a number of imbalances. In particular, there is the imbalance in the sources of growth in the economy, which has been driven much more by exports and investment than by consumption, as reflected in China's growing current account surplus. Moreover, the efficient allocation of the vast amount of investment within the economy has been hampered by, inter alia, an underdeveloped capital market and by incentives and other forms of assistance accorded to manufacturing. At the same time, the pace of China's growth has exacerbated environmental

problems, and income inequality has widened, especially between urban and rural residents. In order to redress some of these imbalances, the Government has taken a number of policy initiatives, which, in some instances, involve trade policy measures (such as taxes and reduced VAT rebates in respect of exports). These measures tend to discourage exports and increase the domestic supply of products concerned, and thus result in lower domestic prices of these products than otherwise; this possibly assists downstream processing of these products, without necessarily helping to improve the environment or reduce the current account balance. Consequently, the effectiveness of such trade policy measures in addressing the current account surplus and environmental problems is questionable.

(2) TRADE AND INVESTMENT POLICY FRAMEWORK

7. The overall aim of China's trade policy, which has remained unchanged since its previous Trade Policy Review, is to accelerate the opening of its economy to the outside world to introduce foreign technology and know-how, develop foreign trade, and promote "sound economic development". China aims to further strengthen the multilateral trading system; at the same time, it has been intensifying its pursuit of bilateral/regional free-trade agreements with some of its trading partners.

8. China has continued to attach high priority to the multilateral trading system and has been participating in the Doha Development Agenda negotiations. China grants at least MFN treatment to all WTO Members except El Salvador and some territories of EC member states. China has been a party to one dispute as a complainant and nine disputes as a respondent since 2006.

9. During the period under Review, two free-trade agreements entered into force (the China – Chile FTA on 1 October 2006 and the China – Pakistan FTA on 1 July 2007). The Agreement on Trade in Services of the China-ASEAN Free Trade Area also entered into force on 1 July 2007. Four further agreements are being negotiated.

10. Although some aspects of China's trade policy regime remain opaque, it has continued to adopt measures to increase the level of transparency of its trade and trade-related policies, practices, and measures. Since its previous Review, additional measures, such as the Regulation on Open Government Information, have been introduced with a view to enhancing transparency. On 13 September 2007, the National Corruption Prevention Bureau was established. Since its previous Trade Policy Review, several new trade-related laws, including the Property Law, the Enterprise Income Tax Law, the Anti-Monopoly Law and the Law on Enterprise Bankruptcy, have been adopted.

11. China has recently been moving towards achieving a level playing field for foreign and domestic investors in China. Until the end of 2007, China had provided better than national treatment in its taxation policies for foreign-invested enterprises (FIEs); since 1 January 2008, a uniform enterprise income tax rate of 25% has been applied to all enterprises (including FIEs) in accordance with the Enterprise Income Tax Law, with some exceptions such as lower rates granted for investment in certain industries. It would appear that all tax incentives now apply equally to domestic firms and FIEs. Several regulations and rules have been introduced or amended with a view to further liberalizing foreign direct investment and establishing a more rules-based and predictable business environment for foreign investors.

(3) TRADE POLICIES AND PRACTICES BY MEASURE

12. Since its previous Trade Policy Review in 2006, China has, by and large, continued to liberalize gradually its trade and related policies. Nonetheless, trade and trade-related measures, both at the border and internally, are still used as instruments of industrial policy.

13. The tariff remains one of China’s main trade policy instruments. The overall average applied MFN tariff was 9.7% in 2007 (the same as in 2005). The average applied MFN tariffs for agricultural and non-agricultural products were 15.3% and 8.8%, respectively (also the same as in 2005). Preferential tariff rates are applied under bilateral free-trade agreements to which China is a party; the tariff averages range from 3.5% to 9.1%. In 2007, China unilaterally applied preferential tariffs to 37 LDCs; the tariff averages ranged from 9.0% to 9.5%, depending on the origin of goods. Tariff rate quotas on soybean oil, palm oil, and some rapeseed oil were eliminated in 2006. Tariff revenue accounts for a minor source of total tax revenue (3.3% in 2006).

14. Whereas the average applied MFN tariff has remained largely unchanged, non-tariff barriers have been reduced; for example, the number of lines subject to automatic import licensing has declined. China’s institutional and procedural framework on contingency measures has remained largely unchanged. Between 1 January 2005 and 30 June 2007, China initiated 39 anti-dumping investigations. China has not taken any countervailing measures or safeguard measures since its previous Review.

15. China has adopted measures to increase the alignment of its national standards with international norms. It has notified the WTO of a number of sanitary and phytosanitary (SPS) measures and technical barriers to trade. With a large number of laws governing SPS measures, the SPS regime remains complex. Under the Law on Government Procurement, goods may be purchased from foreigners only under exceptional circumstances; although, in practice, procurement from foreign suppliers appears to occur routinely for some products. The law does not cover purchasing by state-owned enterprises. China is an observer to the WTO Agreement on Government Procurement (GPA), and submitted its application for accession to the GPA in December 2007.

16. China's already complex export regime has become considerably more restrictive. A variety of measures, including export taxes, reduced rebates of VAT on exports, and export prohibitions, licensing and quotas, are used to restrain, if not prohibit, exports of a considerable and growing number of products. Although some of these export restraints are implemented to meet China's international obligations, many are intended to, inter alia, reduce exports of products using large amounts of natural resources and energy, or to reduce China's large trade surplus in an attempt to reduce trade friction. For instance, the number of tariff lines subject to interim export duties was almost doubled in the last two years, VAT rebate rates on exports of some 2,800 lines (HS 8-digit) were eliminated or lowered in July 2007, and the number of lines subject to export quotas and licensing requirements has increased.

17. China has continued to use policy tools to channel resources into certain activities, with a view, inter alia, to promoting investment in high technology, encouraging innovation, and protecting the environment (by, for example, reducing energy consumption). These tools include tax incentives, non-tax subsidies, price controls, and various forms of "guidance" including sector-specific "industrial policies". In April 2006, China notified the Central Government's subsidies programmes to the WTO; these included income tax reductions and exemptions granted to enterprises located in selected areas, engaging in certain activities, or involving foreign ownership (foreign-invested enterprises (FIEs)).

18. Reform of the public sector, including state-owned enterprise (SOEs), remains a major challenge. Recent progress in the reform of SOEs by, inter alia, their reorganization, corporatization and privatization, has improved their performance; by reducing state involvement or freeing-up resources once owned by the State, the reform has also helped the development of the private (non-public) sector. Nonetheless, SOEs continue to play a dominant role in the

economy (accounting for some 35% of GDP) and enjoy monopoly positions in certain sectors. By contrast, the private sector continues to face constraints, including in access to finance. A main challenge to SOEs is to raise their productivity through further reforms; private firms operating in China (especially FIEs) are, by and large, more productive than SOEs.

19. Corporate governance has been improved not only because of the development of the private sector and the corporatization of SOEs, but also because of the entry into force of the Law on Enterprise Bankruptcy, which applies to all enterprises (including SOEs) in China. In addition, China's accounting standards have been revised to further align them with international practices. At the same time, to promote competition in the economy, the Anti-Monopoly Law was promulgated and is to enter into force on 1 August 2008. All sectors of the economy, apart from certain activities related to agriculture, are covered by this law. However, the implementing details of the Law have not yet been formulated.

20. One of the major targets of the Eleventh Five-Year Plan is to ensure adequate returns to investment in innovation by protecting intellectual property rights. Thus, China is revising several pieces of legislation, including the Patent Law and the Trademark Law, to achieve an appropriate balance between the protection of intellectual property rights (IPR) and the promotion of competition. The enforcement of IPR protection has been strengthened, although questions remain about the sufficiency of fines and criminal penalties to deter IPR violations.

(4) TRADE POLICIES BY SECTOR

21. China's ongoing reform of its trade and investment regime remains an integral part of its structural reform strategy. Having concentrated much of its past efforts on manufacturing, which tends to be capital-intensive, the Government's attention is now turning to services (and, to a lesser extent, agriculture), which tend to be much more labour-intensive than manufacturing. If sufficiently competitive, services have the potential in the long run to generate new jobs for surplus labour currently located in rural areas. Progress has been especially noteworthy in the financial services sector (including banking), whose development is essential for the establishment of a smooth-functioning capital market, which can contribute to a more efficient allocation of investment across all sectors of the economy and thereby to improved productivity and growth.

22. One of the main changes concerning agriculture has been the shift from taxing the sector to supporting it. Most agricultural taxes were eliminated in 2006, and farmers have been provided with financial support (since 2004). Nonetheless, agriculture's contribution to GDP has continued to decline (from 13.4% in 2004 to 11.8% in 2006). With agriculture accounting for some 40% of total employment in 2006, labour productivity is barely one-fifth of the level in the rest of the economy, and there is still a considerable surplus of labour in the sector. As a result, average rural incomes have fallen further behind the urban average, thus widening the gap between rural and urban living standards. The authorities are well aware of the need to further develop rural areas, raise productivity in the sector, and improve farmers' welfare. Against this background, the rural reform process has continued as stipulated in the Eleventh Five-Year-Plan (2006-10) through the implementation of a series of measures to increase productivity including improved infrastructure, production technologies, and training (for farmers). The plan also encourages the movement of rural labour, and reiterates the Government's intention to continue increasing the support granted to agriculture through direct transfers and subsidies.

23. Agricultural policy has traditionally been aimed at ensuring an adequate supply of food at stable prices. To meet this goal, procurement, distribution and marketing restrictions are used in addition to measures

such as price controls and import and export restrictions. China's average applied MFN tariff on agricultural products (WTO definition) remained unchanged at 15.3% during the period 2005 – 2007. Although tariff rate quotas (TRQs) on some edible oils were eliminated, those for some cereals, sugar, mineral and chemical fertilizers, and wool and cotton have been maintained. China continues to use state trading to manage trade of some products. Despite liberalization, direct management remains an important instrument of Chinese policy making. In particular, the domestic prices of some products are subject to controls, principally to maintain the stability of supply and prices. Furthermore, to achieve a high degree of grain self-sufficiency, and thus food security, procurement of grain is, to some extent, controlled by the Government.

24. Since the previous Review, there have been no major changes in policies concerning China's energy sector, which continues to be characterized by a high level of state ownership, regulation and limited competition. China is the second largest energy user in the world. Moreover, it emits the second largest amount of greenhouse gases, mostly due to the use of coal, which continues to account for some 70% of China's energy production, and to the increasing number of cars on the roads. China's rapid growth and the economy's high energy intensity is also putting considerable upward pressure on world demand for energy, particularly on oil, and thus energy prices. While China's high energy intensity may be partly explained by the share of industry (which tends to be relatively energy intensive) in GDP, it is also undoubtedly due to the existing insufficiently market-oriented price mechanism for oil, coal, electricity and natural gas, which sets artificially low prices and, as a consequence, leads to a waste of energy, to the detriment of the environment. Hence, one of the key compulsory targets in the Eleventh Five-Year Plan is a 20% reduction in energy intensity by 2010. China's energy policy is also aimed at self sufficiency by supplementing domestic supplies of primary energy through imports and by encouraging state-owned enterprises (SOEs) to invest in energy-rich countries, and more recently through the establishment of strategic oil reserves to stabilize domestic supply and prices. China's markets for energy products are at different stages of reform. While the Government has, in general, adopted a more liberal approach to economic policy, it regards energy as a strategic commodity and has therefore adopted a gradual approach to reforming the sector. As a result, consumers remain insulated from the global markets, while trade restrictions and regulatory barriers protect domestic producers from international competition. However, it remains to be seen whether such a gradual approach to reform will be sufficient to address the challenges the sector faces, especially the compatibility of China's large and rapidly growing energy needs with protection of the environment.

25. Reflecting greater liberalization compared to other sectors of the economy, manufacturing, particularly by FIEs, and resulting exports, has been the main driving force behind China's industrialization and rapid economic growth in recent years. Manufacturing accounted for 92.4% of China's merchandise exports in 2006; it is also the source of much of China's processing trade, which is dominated by FIEs. By developing-country standards, tariffs on manufactured goods are low, with a simple average applied MFN tariff of 9.7% in 2007 (9.8% in 2005). Nonetheless, the allocation of the vast amount of domestic investment has been distorted by, *inter alia,* incentives and other forms of assistance accorded largely to manufacturing (rather than services or agriculture), where foreign-invested enterprises (FIEs) have hitherto been favoured over domestic private firms. A range of other measures also remain in place with a view to controlling domestic supplies for key industries and to assisting or managing their growth, although sectors subject to government intervention (e.g. the automobile industry) have been found less efficient than those facing less government intervention (e.g. computer manufacturing). For example, VAT rebate rates were adjusted during the period under review to, *inter alia,* reduce exports of certain products; as a

consequence, the domestic prices of these products tend to be lower than would otherwise be the case, thereby possibly assisting their downstream processing. At the same time, rebate rates on some other products were increased. Furthermore, the State "guides" investment into or out of certain sectors or activities. For example, the Government employs various measures/practices (including "guidance" to banks as regards financing) to discourage investment in the sectors that are contrary to state policy, including "unchecked investment" in industries "with high energy consumption and pollution", such as the coke, calcium carbide and iron alloy industries, or where production capacity is considered to be excessive.

26. While the Government's intention is to open the services sector further to private and foreign participation as a means of boosting growth and providing alternative employment to agriculture, the pace of liberalization has been slower than that for manufacturing. As a result, most services sectors are still subject to a high degree of state control and, therefore, lack of competition.

27. China's capital market remains heavily dependent on the banking system, which is still under-developed and relatively inefficient. Lack of access to external financing through the capital market has resulted in domestic private enterprises relying heavily on retained earnings (or funds raised from family and friends). Against this background, banking reform has continued, including the introduction in December 2006 of a new regulation allowing foreign-funded banks (FFBs) to offer RMB business to Chinese nationals, with no geographical restrictions. However, stringent qualification requirements still apply to FFBs; these include high minimum asset requirements on the sole or controlling shareholder, high minimum paid-in capital amounts, restrictions on the supply of credit-card services, and restrictions on the business scope of foreign banks branches. The stock market has developed quickly during the period under Review, prompted by several reforms. For example, institutional investors have been allowed to play an increasing role, by raising the quota allocations in the qualified foreign institutional investor (QFII) programme, encouraging the development of investment funds, and the participation of insurance companies and social security funds. Foreign investment is limited to 33% in joint-venture (JV) securities companies and to 49% in JV fund management companies. Restrictions on foreign participation also remain in the insurance sector, where foreign companies are not allowed to own more than a 50% equity interest (directly or indirectly) in a Chinese-foreign JV company undertaking life insurance. Other regulatory requirements add to the difficulty in expanding foreign presence, such as geographical restrictions to carry on businesses.

28. Since 2006, China has issued various regulations and rules concerning telecommunications, including: those aimed at clarifying licensing requirement for foreign investment in value-added telecommunication business, and stipulation that e-mail service providers must obtain approval or register before actually providing the service. Prices have been liberalized considerably, except for a few items, such as monthly rental charges and local call charges, and foreign participation limitations exist.

29. Limitations to foreign participation still exist for maritime and air transport, legal and accounting, tourism, and postal services. As an important step in the reform of the latter, the China Post Group Corporation was formally established on 29 January 2007, marking the formal separation of business activities from the administrative functions of the State Postal Bureau.

(5) OUTLOOK

30. With continuing strong growth in the latter half of 2007, China's annual growth rate was estimated at 11.4%, which was higher than the average rate achieved during 2003-06. Consequently, the Government's target of doubling GDP per capita in 2010 relative to

2000, as set out in its the Eleventh Five-Year Plan, would appear to be within reach. Furthermore, with its vast human resources, high rate of investment in physical and, to a lesser extent, human capital, strong growth in labour productivity, and increasingly market-oriented economy, open to international trade and foreign investment (and associated technology), China has the potential to sustain its rapid growth in the foreseeable future, albeit at a somewhat slower rate as its economy matures and its labour force starts to shrink (largely as a result of its one-child policy). In order to realize this potential, however, China needs to continue to address a number of important social and economic challenges, including various economic imbalances, which could jeopardize the economy's stability and thus the achievement of a "harmonious society".

31. First, there is the challenge posed by widening income disparities among regions and between urban and rural areas, one of the primary causes of which is wage differentials reflecting differences in labour productivity. A related challenge is the need to facilitate the movement of surplus labour from relatively low-productivity agriculture into other activities, notably services, which tend to be less labour-intensive than manufacturing. Moreover, as growth in the labour force slows, technological progress will assume much greater importance as a source of economic growth and productivity improvement, so that China needs to continue to pursue its goal of substantially raising expenditure on R&D as a percentage of GDP (and improve protection of intellectual property). China also needs to proceed with its plans to increase government spending on social services, such as health and education, and thus human capital, as well as basic pensions, thereby possibly reducing the need for precautionary saving and thus raising consumption. These and other measures to increase consumption would not only reduce China's reliance on exports for growth, and hence its vulnerability to economic slowdowns abroad, but would also narrow the gap between national saving and gross domestic investment and therefore help to reduce China's large current account surplus. Another way of reducing China's high propensity to save would be by channelling savings into the most profitable investments, thus improving the productivity of capital in the economy as a whole; this requires ongoing reform of the capital market to render it more efficient (and improve the transmission, and thus operation, of monetary policy). In addition, impediments to the efficient allocation of land, energy, water and other natural resources, such as price controls, need to be gradually dismantled; this would help protect the environment, especially if supplemented by market-based tax and non-tax instruments, based on the "polluter pays" principle, for example, to correct market failure. There is also the challenge of tax reforms that would render the tax system (especially the VAT and enterprise income tax) more neutral with respect to economic decisions, so that it raises sufficient revenues in an administratively simple and equitable way in order to meet China's developmental needs, including expenditures mentioned above, while minimizing consequent distortions in the domestic allocation of resources and trade.

32. Although no forecasts of economic growth for 2008 were available from the authorities, the World Bank envisages a slowdown to 9.6% owing to decelerating exports and a weakening global outlook. Such a slowdown will bring the growth rate more into line with the Government's target of 8%, something that macroeconomic policies, especially monetary policy, have hitherto proved ineffective in achieving. Such a cooling of the economy could reduce inflationary pressure and contribute to its re-balancing. Nonetheless, there remains the immediate issue concerning the ability of monetary policy to combat rising inflation. In this regard, a more flexible exchange rate regime could enable China to operate a more independent monetary policy, which would be better suited to ensuring a low and stable rate of inflation, and therefore contribute to a macroeconomic environment more conducive to sustained strong economic growth. A more flexible exchange rate and thus more

independent monetary policy would complement structural reforms, especially those concerning the capital market, and obviate the need for price controls and other non-market measures to contain inflation. There are signs that China's exchange rate regime has become more flexible recently; in January 2008, the renminbi appreciated nearly 1.6% in relation to the U.S. dollar, the largest monthly increase since the July 2005 reform of the foreign exchange regime.

I. ECONOMIC ENVIRONMENT

(1) INTRODUCTION

1. Since China's previous Trade Policy Review in 2006, continued trade liberalization has remained an integral part of the Government's long-standing structural reform strategy, which is aimed at establishing an outward-oriented "socialist market economy" that can deliver sustained economic growth and facilitate poverty reduction. China's ongoing structural reforms coupled with unabated export growth and investment has resulted in real GDP growth rates in excess of 10% during the past four years, and 11.4% in 2007, the fastest pace in 13 years (and considerably more than the Government's annual target of 8%)[1]. As a result, China now ranks as the world's third largest economy (behind the United States and Japan), as well as the third largest trader (behind the United States and the European Communities). Trade plays an important role in China's economy; in 2006, its total merchandise trade (imports and exports) was about 65% of GDP and over 13% of world merchandise trade. Sustained high growth rates have alleviated poverty, with the number of people living under the poverty line falling from 23.7 million in 2005 to 21.5 million in 2006[2]; furthermore, GDP per capita rose from US$1,490 in 2004 to US$2,017 in 2006 (Table I.1). The unemployment rate in urban areas declined marginally to 4.0% in 2007 (from 4.2% in 2005). The annual rate of inflation (growth in CPI) was 4.8% in 2007, up from 1.5% in 2006.[3] China continues to be a major recipient of foreign direct investment (FDI) (together with associated transfer of technology and know-how), most of which is channelled into manufacturing. Outward FDI also rose sharply in 2005 and 2006. It would appear that China's competitiveness has also improved markedly.[4]

2. Notwithstanding China's rapid growth and improved competitiveness, its economy is characterized by a number of imbalances, several of which are interrelated. First is the imbalance in the sources of growth in the economy, which has been driven much more by exports and investment than by consumption, with savings accounting for more than half of GDP. The widening gap between China's gross national savings and gross domestic investment is reflected in its growing current account surplus, which reached 11.0% in 2007 (compared with 9.4% in 2006). Second, although average incomes have risen and the number of people living below the poverty line has continued to decline, income inequality has widened, especially between urban and rural residents.[5] As a result, the Gini coefficient has been rising and is now approaching 0.50, one of the highest in Asia.[6] Third,

[1] *Xinhua News* online information, "China sets 8% growth target for 2007". Viewed at: http://news.xinhuanet.com/english/2007-03/05/content_5802272.htm [10February 2008]. In the medium term, the Government aims to achieve an average annual growth rate of 7.5% so as to double the per capita GDP of 2000 by 2010 (People's Daily online information. Viewed at: http://English.peopledaily.com.cn/200603/05/print20060305_248054.html [11 February 2008]).

[2] Data provided by the Chinese authorities. The poverty line is defined as annual income of less than Y 683 in 2005 and Y 693 in 2006. (China's currency is called the Renminbi (RMB), with the currency denominated as Yuan.) However, the World Bank estimated that in 2005, 9.9% of China's population lived in poverty, defined as living on less than US$1 (1993 purchasing power parity) a day.

[3] On a monthly basis, inflation hit an 11-year high of 7.1% in January 2008. China's priority is to tame inflation, and keep it around 4.8% for 2008 (*Financial Times,* 5 March 2008).

[4] According to the World Economic Forum's latest Global Competitiveness Index, China ranked 34th (out of 131 countries and economies) in 2007-08, up from 54th (out of 125 countries and economies) in 2006. Viewed at: http://www.weforum.org/pdf/Global_Competitiveness_Reports/Reports/gcr_2007/gcr2007_rankings.pdf and http://www.weforum.org/pdf/Global_Competitiveness_Reports/Reports/gcr_2006/gcr2006_rankings.pdf [6 February 2008].

[5] The urban to rural residents' income ratio was 2.9:1 in 2001; this increased to 3.3:1 in 2006 (Asian Development Bank (2007)).

[6] The Gini coefficient, an internationally accepted measure of income inequality, was 0.447 in 2001, and recent reports suggest that it is approaching 0.5 (an index of zero represents perfect equality, while

the pace of China's growth has exacerbated environmental problems, including pollution. For example, the production of electricity, which largely relies on coal, grew faster than GDP in the second quarter of 2007, apparently bringing about a surge in greenhouse gas emissions. This situation is compounded by the relatively high energy-intensity of production[7]; in 2005, for every Y 10,000 (US$1,234) of GDP, China consumed 1.2 tonnes of coal equivalent; this amount is much higher than that in, for example, the United States or Japan.[8] Fourth, the efficient allocation of the vast amount of investment within the economy has been hampered by, *inter alia*, an underdeveloped capital market and by incentives and other forms of assistance accorded to manufacturing (rather than services or agriculture), where foreign-invested enterprises (FIEs) have been favoured over individual businesses and domestic private firms (i.e. domestic firms other than state-owned enterprises (SOEs) and collectively owned enterprises). In addition, access to finance can be more difficult for domestic private firms than for FIEs and SOEs, partly due to lack of collateral. Fifth, investment has been skewed towards physical capital at the expense of investment in human capital and research and development (R&D). Sixth, although the tax-to-GDP ratio has been rising, not enough resources are devoted to "social infrastructure", such as education, health care, and basic pensions. Seventh, a sharp increase in the ratio of aged population (not in the labour force) relative to those that are employed is envisaged during the next two decades, putting pressure on pensions and the supply of labour.

Table I.1
Basic economic and social indicators, 2004-07

	2004	2005	2006	2007
Nominal GDP (Yuan billion)	15,987.8	18,386.8	21,087.1	24,661.9
Nominal GDP (US$ billion)	1,931.6	2,243.8	2,644.7	..
GDP per capita (Yuan)	12,336.0	14,103.0	16,084.0	..
GDP per capita (US$)	1,490.4	1,721.1	2,017.2	..
		(Annual percentage change)		
GDP by industry at 1978 indices				
Agriculture, forestry and fishing	6.3	5.2	5.0	3.7
Industry[a]	11.5	11.6	12.9	13.4
Construction	8.1	12.6	13.7	..
Services	10.1	10.5	10.8	11.4
Transport, storage and communication	14.5	11.3	8.3	..
Wholesale and retail trade	6.6	7.8	10.9	16.7
Restaurants and hotels	12.3	12.3	13.6	19.4
Financial intermediation	3.7	14.1	18.5	..
Real estate	5.9	8.7	9.1	..
Other	12.6	11.0	10.0	..

Table I.1 (cont'd)

1 indicates perfect inequality) (*China Daily* online information. Viewed at: http://www.chinadaily.com.cn/bizchina/2006-06/29/content_629155.htm [11 February 2008]).

[7] This is true not just in the case of energy, but also other resources (such as steel, aluminium, copper, zinc and nickel).

[8] Asian Development Bank (2006a). Other reports show that China has the third highest consumption of coal in relation to GDP (NationMaster.com online information, "Energy Statistics Coal Consumption (per $GDP) by Country". Viewed at: http://www.nationmaster.com/graph/ene_coa_con_pergdp-energy-coal-consumption-per-gdp [11 February 2008]).

	2004	2005	2006	2007
	(Per cent)			
Share of main sectors in GDP (%)				
Agriculture, forestry and fishing	13.4	12.5	11.7	..
Industry[a]	40.8	42.0	43.3	..
Construction	5.4	5.5	5.6	..
Services	40.4	39.9	39.3	..
Transport, storage and communication	5.8	5.9	5.7	..
Wholesale and retail trade	7.8	7.4	7.2	..
Restaurants and hotels	2.3	2.3	2.3	..
Financial intermediation	3.4	3.4	3.6	..
Real estate	4.5	4.5	4.5	..
Other	16.6	16.5	16.1	..
Share of sectors in total employment[b] (%)				
Agriculture, forestry and fishing	42.7	41.0	39.9	..
Mining and quarrying	0.7	0.7	0.7	..
Manufacturing	12.1	12.7	13.8	..
Electricity, gas and water	0.4	0.4	0.4	..
Construction	5.6	5.9	6.3	..
Services	17.0	18.3	19.3	..
Transport, storage and communication	2.9	2.9	3.0	..
Wholesale and retail trade	7.0	6.3	6.7	..
Hotels and catering	1.1	1.8	2.0	..
Financial intermediation	0.5	0.5	0.5	..
Real estate	0.2	0.3	0.4	..
Other	14.0	15.0	15.4	..

.. Not available.

a Including mining and quarrying, manufacturing, and production and supply of electricity.
b Sectoral employment is received by adding up employment in urban public sectors, in rural areas, and in urban private and individual sectors; therefore, the sum of each item does not equal the total amount.

Source: National Bureau of Statistics of China (2007), *Statistical Yearbook*; UNDP (2006), *Human Development Report*; and authorities of China.

3. In order to redress some of these imbalances, the Government has taken a number of policy initiatives, which, in some instances, involve trade policy measures (such as taxes and reduced VAT rebates in respect of exports), whose effectiveness is dubious. With a view to alleviating income inequality, the agricultural tax and most fees charged to farmers have been abolished[9], and a "rural subsistence welfare system" was introduced in 2007 to provide a minimum living allowance for the rural poor[10]; additionally, the minimum threshold for payment of personal income tax was raised in 2006 and 2008. Partly with a view to protecting the environment, VAT rebate rates have been reduced on exports of energy-intensive manufactured goods; protection of the environment is also a

[9] It would appear that receipts of other taxes associated with agriculture, such as deed tax (on real estate transactions) and farmland occupation tax, have risen, as have input prices, especially for fertilizer.

[10] To increase labour productivity and thus incomes in agriculture, better infrastructure, more mechanization, larger farm sizes (to take advantage of economies of scale), and fewer agricultural workers through out-migration may be needed. Financing of investment is also a problem for farmers as they do not own the land that they work on and thus tend to have very little collateral.

key objective of the Government's Eleventh Five-year Plan.[11] In order to redress sectoral imbalances, the State Council issued a document in March 2007 calling, *inter alia,* for: a three percentage point increase in the share of services in GDP between 2005 and 2010 with a view to reaching 50% by 2020; creation of a level playing field for domestic and foreign players in certain services; and provision of tax incentives for the development of services.[12] At the same time, certain incentives, such as preferential tax rates, accorded mainly to manufacturing firms, have been largely withdrawn with, for example, the unification of the enterprise income tax (Chapter III(4)(i)).[13] China is also promoting a "knowledge economy" and production of higher value-added goods so as to promote "indigenous" innovation and reduce China's dependence on foreign technology from 60% to 30% (as measured by the ratio of its technology imports to its domestic R&D spending plus net technology exports), thereby cutting its royalty payments. According to the Ministry of Science and Technology, R&D spending is around 1.5% of GDP (compared with 2.7%, 1.9% and 2.7% in Japan, EC-25 and the United States, respectively), which the Government aims to increase to 2.5% of GDP by 2020.[14] Budgetary expenditure on health, education, and social security has also been increased. In addition, the Government is in the process of reforming its pension system with a view to facilitating more contributions and extending coverage. The extent to which these measures address the various imbalances in the economy remains to be seen.

(2) RECENT ECONOMIC DEVELOPMENTS

4. Real GDP growth in China was 11.4% in 2007 (Table I.2). Economic growth has been driven mainly by manufacturing, especially exports of manufactured goods (which grew by over 25% in 2007) and investment (which outpaced domestic consumption). Growth of value added in the industrial sector averaged over 13% in 2006 and 2007.[15] Domestic investment was fuelled by reinvested profits of firms (particularly SOEs) and easy credit conditions, arguably reflecting excess liquidity in the banking system; the share of gross domestic investment in GDP increased from 43.3% in 2005 to 44.9% in 2006. Increased investment has helped labour productivity in manufacturing to outpace wage growth; thus, the ratio of wages to total value added in manufacturing has declined, resulting in higher profits for firms, and higher national saving in relation to GDP. More broadly, the share of wages in GDP declined from 53% in 1998 to 41% in 2005, while consumer spending was less than 36% of GDP in 2006 (compared with over 50% of GDP in India, Japan, South Korea and the United States).[16]

[11] The Plan aims to achieve economic development that is "comprehensive, harmonious, and sustainable". The main objectives under the Plan include: doubling per capita GDP between 2000 and 2010; reducing energy intensity by 20% over the course of the Plan; increasing urbanization from approximately 40% in 2005 to 48% by 2010; increasing both rural and urban incomes by 5% per annum; and substantially increasing health coverage and education for rural residents.

[12] Several Opinions of the State Council for Accelerating Development of the Services Industry. Viewed at: http://www.fdi.gov.cn/pub/FDI_EN/Laws/InvestmentDirection/IndustrialGuidance/P020070712570808281170.pdf [11 February 2008]. The State Council intends to create a "Leading Group for Service Sector Development", with an office in the National Development and Reform Commission (NDRC).

[13] The unification of the tax rate is also likely to eliminate the incentive for "round tripping" of domestic capital disguised as foreign, enabling it to take advantage of incentives offered to FIEs.

[14] China's commitment to R&D was emphasized in President Hu Jintao's address to the 17th National Congress of the Communist Party of China, where he pledged to increase spending on innovation.

[15] Asian Development Bank (2006b).

[16] *The Economist,* 11 October 2007, and World Bank (2006c).

Table I.2
Selected macroeconomic indicators, 2004-07
(Per cent)

	2004	2005	2006	2007
National accounts				
Real GDP (production based)	10.1	10.4	11.1	11.4
Consumption	7.1	9.4	10.3	10.9
Gross fixed capital formation	16.8	16.8	14.9	12.9
Unemployment rate (%)[a]	4.2	4.2	4.1	4.0
Prices and interest rates				
Inflation (CPI, %age change)	3.9	1.8	1.5	4.8
Lending rate (period average)	5.58	5.58	6.12	..
Deposit rate (period average)	2.25	2.25	2.52	..
Money credit (end period)				
Money supply (M2)	14.9	17.6	16.9	16.7
Credit to private sector (end period)	8.1	11.7	15.1	14.1
Exchange rate				
Yuan per US$	8.277	8.194	7.973	..
Real effective exchange rate index (%age change)	-2.6	-0.2	2.1	..
Nominal effective exchange rate index (%age change)	-4.5	0.1	2.7	..
Fiscal policy[b]				
Government balance	-1.3	-1.2	-0.1	-0.6
Total revenue	16.6	17.8	18.9	19.8
Tax revenue	15.1	15.7	16.5	..
Total expenditure	18.0	19.0	19.4	20.4
Public sector total debt	20.2	17.7	16.6	..
Domestic debt	17.5	17.3	16.3	..
Saving and investment				
Gross national savings	42.9	50.5	54.4	..
Gross domestic investment	39.3	43.3	44.9	..
Savings-investment gap	3.6	7.2	9.5	..
External sector				
Current account balance	3.6	7.1	9.5	11.0
Net merchandise trade	3.1	6.0	8.2	..
Value of exports	30.7	34.0	36.7	..
Value of imports	27.7	28.0	28.4	..
Services balance	-0.5	-0.4	-0.3	..
Capital account	0.0	0.2	0.2	..
Financial account	5.7	2.6	0.2	..
Direct investment	2.8	3.0	2.3	..
Balance of payments	10.7	9.2	9.3	..
Merchandise exports (%age change)	35.4	28.5	27.2	..
Merchandise imports (%age change)	35.8	17.6	19.7	..

Table I.2 (cont'd)

	2004	2005	2006	2007
Service exports (%age change)	33.6	19.2	23.6	..
Service imports (%age change)	30.4	16.2	20.3	..
Gross official reserves[c] (US$ billion)	614.5	821.5	1,068.5	1,530.5
Total external debt (US$ billion; end period)	228.6	281.0	323.0	..
Debt service ratio[d]	3.2	3.1	2.1	..

a Registered unemployment in urban areas.
b GFS basis; central and local governments, including all official external borrowing. The data are not adjusted for accumulation of arrears in tax rebates to exporters during 2000-02, and the repayment of these arrears in 2004 and 2005. Such an adjustment would increase the deficit in 2000-02 and lower it in 2004-05.
c Excluding gold.
d 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 (various issues), *Statistical Yearbook*; State Administration of Foreign Exchange online information. Viewed at: www.safe.gov.cn/model_safe_en/index.jsp; International Monetary Fund (various issues), *International Financial Statistics*; World Bank (2008), *China Quaterly Update,* February; and data provided by the authorities.

5. China's high gross domestic investment rate has expanded production capacity to meet growing demand. While investment in some sectors (notably steel and aluminium) has been arguably excessive, the expansion of production capacity has helped alleviate inflationary pressure. Nevertheless, inflation as measured by consumer price index (CPI) has been rising, reaching 4.8% in 2007[17], compared with a People's Bank of China (PBC) indicative target of 3% for the year.[18] The rise in inflation is due largely to increasing food prices, especially those of grain and meat; in January 2008, for example, food prices (which make up a third of the CPI) rose by over 18% (year-on-year), whereas price increases in non-food items were around 1%. As the relatively poor spend a disproportionate amount of their incomes on food (30%-50%), higher food prices would tend to exacerbate inequality.[19] The CPI does not capture the full extent of inflation, however, as some of the prices included in the index, such as those of electricity, coal (used for electricity generation) and refined petroleum, are controlled by the Government (Chapter III(4)(iv)). Moreover, interim export taxes on grain, including wheat, rice, corn, and soya beans, are levied at rates of between 5% and 25% in 2008; such taxes tend to discourage exports and increase domestic supply and thereby dampen price increases.[20] The Government also started to control the prices of basic foodstuff from January 2008 (Chapter III(4)(iii)(b)).[21] In addition, interim import tariffs on some 620 tariff lines, including soya beans and edible fat, were reduced on 1 January 2008 (Chapter III(2)(iii)).

6. In 2007, the urban unemployment rate fell from 4.1% (in 2006) to 4.0%, with 12.04 million new urban jobs being created.[22] On the other hand, the National Development and Reform Commission (NDRC) reportedly estimated that in 2006, 25 million new jobs were needed nationwide to absorb new additions to the labour force and to re-employ the unemployed.[23]

7. Against the background of the Government's effort to promote investment in manufacturing through tax and non-tax measures, manufacturing in China has grown much faster than services and

[17] Monthly CPI was over 6% year-on-year between August and December 2007.
[18] World Bank (2007).
[19] BBC News. Viewed at http://news.bbc.co.uk/2/hi/business/7180442.stm [10 January 2008]
[20] *Financial Times.* Viewed at: http://www.ft.com/cms/s/0/ffd91b16-b700-11dc-aa38-0000779fd2ac.html [11 February 2008].
[21] *Financial Times.* Viewed at: http://www.ft.com/cms/s/0/a1199c74-be9c-11dc-8c61-0000779fd2ac, dwp_uuid=9c33700c-4c86-11da-89df-0000779e2340.html [11 February 2008].
[22] No data on nationwide unemployment rate are available.
[23] Asian Development Bank (2007).

agriculture. Consequently, the share of industry (including manufacturing, mining, and electricity generation) in GDP (43.3%) was higher than that of services (39.3%) and agriculture (11.7%) in 2006 (40.3%, 39.4% and 14.8%, respectively, in 2000). Although the Government's emphasis on manufacturing may also have resulted in an inefficient allocation of capital in the economy, it has provided manufacturing workers with more capital to work with, thus raising labour productivity and wages in manufacturing more than in non-manufacturing. For example, as about 40% of China's labour force is employed in agriculture, which accounts for 11.7% of GDP, labour productivity in agriculture is only one-fifth that in the rest of the economy.[24] As a consequence, wage differentials between manufacturing and non-manufacturing have widened.

8. As regards the external sector, China's current account surplus increased from US$160.8 billion in 2005 to about US$361 billion in 2007, representing 7.1% and 11.0% of GDP, respectively.[25] The increasing surplus reflects a widening gap between gross national savings and gross domestic investment. Although gross domestic investment has been high (44.9% in 2006) in China, gross national savings have been consistently higher (54.4% in 2006). It would appear that a large portion of household saving is precautionary, aimed especially at the provision of education, healthcare, and retirement income; also, the lack of a deep and extensive financial system has motivated households to save in order to enable self-financing of family-owned businesses. Furthermore, corporate saving remains high.[26]

9. The increase in the current account surplus in recent years also reflects an increase in the merchandise trade surplus (Table I.3). China's exports grew rapidly, owing mainly to a large increase in manufactured exports, whose share in GDP rose from 30.7% in 2004 to 36.7% in 2006 (the latest year for which data were available); imports also grew during the same period, albeit at a slower pace. The services trade balance has been in a slight deficit.

10. Despite large portfolio outflows in 2006, against the background of China's easing of capital controls by allowing certain capital outflows through the "qualified domestic institutional investors" (QDII) (section (3)(i)), the capital account remained in surplus due to FDI inflows and other foreign investments.[27] Existing capital controls may have contributed to such a surplus. The surpluses on both the current and capital accounts are reflected in China's foreign exchange reserves, which increased from US$819 billion in 2005 to US$1,530 billion at end 2007, amounting to more than 19 months of import cover; the authorities indicate that the reserves are also equivalent to 5.8 times short-term external debt.[28]

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[24] This also gives rise to speculation about large under-employment in agriculture (World Bank (2007a)).

[25] IMF (2007c).

[26] In 2005, it was estimated that corporate savings accounted for 20.4% of GDP, household savings 16.2%, and government savings 5.7% (He and Kuijs (2007)).

[27] Although FDI inflows declined slightly in 2006, they continue to be robust. Investment outflows, both in terms of outward FDI and portfolio investment, have also shown marked increases, implying China's growing involvement in the world economy.

[28] Reportedly, more than 70% of China's reserves are invested in U.S. dollar assets (*Financial Times*, 5 January 2006, "China signals reserve switch away from dollar"). At the time of China's first Trade Policy Review, when the interest rate paid by the PBC on "sterilization bonds" was higher than that received by the PBC on its reserves, the authorities were then making a profit on this interest rate spread. With the recent fall in U.S. interest rates, however, the PBC will be receiving about 250 basis points less on its U.S. Treasury bills than the (roughly) 4% it pays on its "sterilization bonds". The outcome is an estimated monthly loss of about US$4 billion on the PBC's sterilization operations, with the trend accelerating because reserves are growing faster than GDP (*Financial Times*, 1 February 2008, "Beijing starts to pay for forex 'sterilization'").

Table I.3
Balance of payments, 2004-07 (January-June)
(US$ billion)

	2004	2005	2006	2007 (January-June)
Current account	68.7	160.8	253.3	162.9
Goods and services balance	49.3	124.8	208.9	132.5
Trade balance	59.0	134.2	217.7	135.7
Exports	593.4	762.5	969.7	547.2
Imports	534.4	628.3	751.9	411.5
Services balance	-9.7	-9.4	-8.8	-3.1
Receipts	62.4	74.4	92.0	55.9
Transportation	12.1	15.4	21.0	13.6
Tourism	25.7	29.3	33.9	17.9
Communication	0.4	0.5	0.7	0.6
Construction	1.5	2.6	2.8	1.9
Insurance	0.4	0.5	0.5	0.5
Financial	0.1	0.1	0.1	0.1
Research and development	3.2	5.3	7.8	4.9
Other commercial services	16.0	16.9	19.7	13.0
Other	3.1	3.7	5.3	3.4
Payments	72.1	83.8	100.8	59.0
Transportation	24.5	28.4	34.4	18.4
Tourism	19.1	21.8	24.3	14.6
Communication	0.5	0.6	0.8	0.5
Construction	1.3	1.6	2.0	1.3
Insurance	6.1	7.2	8.8	4.8
Financial	0.1	0.2	0.9	0.3
Research and development	4.7	6.2	8.4	5.1
Other commercial services	8.5	9.4	11.3	8.1
Other	7.2	8.4	10.0	5.9
Income balance	-3.5	10.6	15.2	12.9
Credit	20.5	39.0	54.6	34.1
Debit	24.1	28.3	39.5	21.2
Current transfers (net)	22.9	25.4	29.2	17.4
Credit	24.3	27.8	31.6	19.0
Debit	1.4	2.3	2.4	1.6
Capital and financial account	110.7	63.0	6.7	90.2
Capital account	-0.1	4.0	4.0	1.5
Financial account	110.7	58.9	2.6	88.7
Direct investment	53.1	67.8	56.9	50.9
Chinese direct investment abroad	-1.8	-11.4	-21.2	-7.4
Foreign direct investment in China	54.9	79.1	78.1	58.3
Portfolio investment	19.7	-4.9	-67.6	-4.8
Assets	6.5	-26.2	-110.4	-15.1
Liabilities	13.2	21.2	42.9	10.3
Other investment	37.9	-4.0	13.3	42.6
Assets	2.0	-48.9	-31.9	17.1
Liabilities	35.9	44.9	45.1	25.5
Net errors and omission	27.0	-16.8	-12.9	13.1
Reserve assets	-206.4	-207.0	-247.0	-266.1

Source: Data provided by the Chinese authorities.

(3) MACROECONOMIC POLICIES

(i) Monetary policy

11. The People's Bank of China (PBC) assumes the role of the central bank in accordance with a State Council decision (announced in September 1983). Under the guidance of the State Council, the PBC, *inter alia,* "formulates and implements monetary policy, prevents and resolves financial risks, and safeguards financial stability".[29] The PBC is also responsible for "administering foreign exchange and regulating the inter-bank foreign exchange market". The objective of monetary policy is "to maintain the stability of the renminbi and thereby promote economic growth".[30] The PBC must submit to the State Council for approval its decisions concerning annual money supply, interest rates, exchange rates, and other important matters before they are put into effect.[31] It must also report to the Standing Committee of the National People's Congress on the conduct of monetary policy and the performance of the financial sector.[32]

12. Since China's previous Trade Policy Review, its monetary policy has been driven largely by the need to mop up excess liquidity, reduce credit growth and investment, and consequently cool economic growth. In addition to "sterilization" and moral suasion ("window guidance")[33], instruments used by the PBC during the period under review include increases in the reserve ratio of banks, as well as increases in deposit and lending rates. The PBC raised the benchmark one-year lending rate by 0.27 percentage points to 5.85% in April 2006. Subsequently the rate was raised seven times and stood at 7.47% in December 2007. The "benchmark deposit rate"[34], as announced by the PBC, has also been rising since August 2006, and was at 4.14% in December 2007. In addition, since January 2007, the PBC has raised the required reserve ratio 11 times, with the result that the ratio is now 15%.[35] Other steps taken by the PBC include: issuing "penalty bonds" (which bear interest rates lower than the market rates) to banks that had credit growth in excess of that specified in the PBC's "window guidance" policy[36]; and administrative measures that regulated investment in the capital market, real estate sector and new investment projects.[37] Against this background, growth in money supply in terms of M2 declined slightly to 16.7% in 2007[38], compared with 16.9% in 2006; while credit growth also fell to 14.1% in 2007 (15.1% in 2006).[39] However, it would appear that the

[29] People's Bank of China online information. Available at: http://www.pbc.gov.cn.

[30] Article 3 of the Law on the People's Bank of China.

[31] Article 5 of the Law on the People's Bank of China.

[32] Article 6 of the Law on the People's Bank of China.

[33] Such "guidance", involving monthly meetings with commercial banks to urge them to avoid excessive credit expansion without placing a hard brake on lending, tends to distort the capital market compared with the use of market-based pricing instruments, and prevents the capital market from allocating credit to the most profitable investments.

[34] The benchmark deposit rate is the commercial bank's one-year interest rate paid on deposits with the central bank.

[35] The recent increase in the amount of reserves that commercial banks are required to deposit with the PBC might be partly explained by the potential losses by the PBC on its sterilization operations; the interest rate paid by the PBC on these deposits is currently 1.89%, considerably less than the 4% paid on "sterilization bonds".

[36] "Penalty bonds" have an interest rate that is less than the market rate and are aimed at containing liquidity growth in the market, much in the same way as sterilization; the only difference is that these bonds are not issued against foreign exchange inflows, but rather target existing M2 (World Bank (2006b)).

[37] World Bank (2006b).

[38] M2 in China is defined as currency in circulation, enterprises' current savings, enterprises' fixed savings, saving accounts, and other deposits.

[39] World Bank (2007b) and (2007d).

PBC's ability to use interest rates as an effective monetary policy measure is relatively limited owing to China's exchange rate regime.

13. The Chinese authorities state that they have been implementing a "managed floating" exchange rate system with reference to a basket of currencies based on market supply and demand since 21 July 2005.[40] However, since August 2006, China's exchange rate regime has been classified by the IMF as a "crawling peg".[41] According to the IMF, the observed path of the exchange rate and reserve build up, coupled with information regarding intervention, suggest that the exchange rate was mainly determined by official action, prompting this classification.[42] Currently, the daily exchange rate between the U.S. dollar and the RMB is allowed to fluctuate within a 0.5% band of the central rate[43], which is announced by the China Foreign Exchange Trading Centre, a subsidiary body to the PBC.[44] Since revaluation in July 2005, the RMB has appreciated from Y 8.28 per U.S. dollar to Y 7.18 per U.S. dollar in February 2008, an appreciation of over 13%. According to the authorities, the exchange rate in relation to other currencies is also allowed to fluctuate within a band announced by the PBC. The RMB depreciated by over 5% against the euro, from Y 10.07 per euro in July 2005 to Y 10.65 per euro in February 2008; by contrast over the same period, the RMB appreciated by over 10% against the Japanese yen (JPY), from Y 0.075 per JPY to Y 0.067 per JPY. Since July 2005, both the real effective exchange rate (REER) and nominal effective exchange rate (NEER) have been appreciating, albeit not as significantly as the appreciation against the U.S. dollar[45]; the appreciation of the REER and NEER reflects the RMB's depreciation against other major currencies, i.e. the euro and pound sterling, as well as rising inflation in China.[46]

14. While China has relaxed some capital market controls (see below), by and large, the RMB is not traded freely internationally.[47] Part of the constraint on international trading of the RMB is that the domestic banking sector and capital markets are not sufficiently developed to withstand internal and external financial shocks. A more flexible exchange rate regime could enable China to operate a more independent monetary policy, which would be better suited to achieving a low and stable rate of

[40] On 21 July 2005, China announced a 2.1% revaluation of the renminbi-U.S. dollar exchange rate and a change in its exchange rate arrangement to allow the value of the renminbi to fluctuate based on market supply and demand with reference to an undisclosed basket of currencies. To permit a greater role for market forces in determining the renminbi exchange rate, steps have been taken since July 2005 to liberalize and develop China’s foreign exchange markets, including the establishment of an over-the-counter spot foreign exchange market and markets for currency swaps and futures (IMF (2007a)). Despite the RMB's appreciation in relation to the U.S. dollar, China's trade surplus with the United States has continued to grow. This is not surprising as it is not obvious how an appreciating RMB would narrow the gap between China's national saving and gross domestic investment. An appreciation of the exchange rate could increase domestic consumption insofar as it reduces import prices and thereby stimulates consumption of imported goods (and to the extent that imported goods are not pure substitutes of domestically produced goods).

[41] For the IMF's definition of a crowling peg, see IMF online information, "Classification of Exchange Rate Arrangements and Monetary Policy Frameworks". Viewed at: http://www.imf.org/external/np/mfd/er/2004/eng/0604.htm [11 February 2008].

[42] IMF (2007a).

[43] Prior to May 2007 the band was 0.3%.

[44] The central rate of RMB against the U.S. dollar is determined based on certain "enquired" prices of market makers before the opening of the market each day (China Foreign Exchange Trade System and National Interbank Funding Center, "RMB/Foreign Currency Spot Trading", online information. Viewed at: http://www.chinamoney.com.cn/column/ english/about/services/index.html [11 February 2008]).

[45] According to the BIS, the nominal effective exchange rate of the RMB appreciated by 3.96%, and the real effective exchange rate by 8.59% between July 2005 and November 2007.

[46] IMF (2007b), data available only for June 2007.

[47] Capital controls may be circumvented to some extent by practices such as under-invoicing of imports (and over-invoicing of exports), which would tend to inflate the current account surplus. Combating such practices may require more onerous customs valuation of imported (and exported) products.

inflation in both product and asset markets and allow market forces to assume a greater role in determining interest rates.[48] To the extent that the authorities cannot fully sterilize capital inflows, the outcome may well be higher domestic inflation, which would tend to push up the real effective exchange rate.

15. The capital account was liberalized slightly in 2006 by allowing outward investment in fixed income securities for "qualified domestic institutional investors" (QDII)[49]; other liberalization measures announced by the PBC include raising the limit on purchases of foreign exchange by individuals to US$50,000 in February 2006. However, capital account restrictions, including repatriation requirements remain.[50] On the other hand, rules on inflows have been tightened to make exchange rate speculation more difficult; the measures taken include strengthened controls on foreign capital inflows into the real estate market, and controlling the increase of short-term foreign debt by reducing the quota of foreign invested financial institutions.[51]

(ii) Fiscal policy

16. Since its previous Trade Policy Review, China's fiscal position has strengthened, with revenue increasing faster than expenditure. Total revenue (excluding bond issues) as a percentage of GDP grew from 16.6% in 2004 to 19.8% in 2007, while expenditure grew from 18% in 2004 to 20.4% in 2007. Consequently, the fiscal deficit fell from 1.3% of GDP in 2004 to 0.6% in 2007.[52] The sustained decrease in the fiscal deficit has led to a decline in the level of public debt from 17.5% in 2005 to 16.3% of GDP in 2006. However, the level of public debt does not capture the full extent of the State's indebtedness, as it does not include the Government's contingent liabilities, such as the full cost of pension commitments and the potential cost of bailing out state-owned banks in the event of the latter making insufficient provisions for their non-performing loans (NPL).[53]

17. The total tax-to-GDP ratio increased from 15% in 2004 to 16.5% in 2006.[54] The growth in tax revenues can be attributed to fast growth of the economy, leading to higher corporate profits, higher incomes, and increased consumption.[55] Recent tax measures aimed at containing investment and credit growth, such as the imposition of a 20% capital gains tax on real estate and the stamp duty on stock trading, have also contributed to the growth in tax revenues. In 2006, real estate tax receipts rose 35%, while tax receipts from stamp duty on stock market transactions almost tripled, from

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[48] While any assessment of whether a currency is undervalued (and the extent of such undervaluation) is fraught with analytical difficulties, the lack of flexibility of the exchange rate and its alleged undervaluation is seen by some as providing an advantage to China's exports.

[49] The QDII scheme allows Chinese citizens to invest in overseas equities markets, with designated foreign currencies, through qualified institutional investors, such as fund management companies. (PBC Announcement No. 5 of 2006. Viewed at: http://www.pbc.gov.cn/english/detail.asp?col=6400&ID=668 [11 February 2008].)

[50] See IMF (2007a) for details of China's capital account restrictions.

[51] It would appear that a foreign invested financial institution needs to obtain approval for the annual amount of total foreign debt it can undertake (the annual "quota").

[52] These figures pertain to central and local governments, including all official external borrowings. The data are not adjusted for accumulation of arrears in tax rebates to exporters during 2000-02 and the repayment of these arrears in 2004 and 2005. Such an adjustment would increase the deficit in 2000-02 and lower it in 2004-05.

[53] The fiscal figures do not take into account the potential quasi-fiscal cost of "sterilization".

[54] China would appear to be a low-tax country compared with OECD countries, whose average tax to GDP ratio exceeds 36%. Some developing countries, such as Brazil, are also approaching the same tax to GDP ratio as OECD countries.

[55] During the first half of 2006, corporate profits in industry rose by 28%, nine percentage points greater than the same period in 2005 (World Bank (2006b)).

Y 6.7 billion in 2005 to Y 17.9 billion in 2006.[56] With a large proportion of the investment in manufacturing coming from reinvested earnings, especially by SOEs, the Government is considering a reform requiring SOEs' profits to be paid to the Government in the form of dividends. These dividends would be used as extra-budgetary expenditure on social services and rural development (thereby possibly increasing domestic consumption). In this regard, the State Council announced in September 2007 that a special budget to utilize SOE profits for social expenditure and SOE reform would be set up in 2008.[57]

18. The Government has been increasing expenditure on social services so as to promote a "harmonious society" as well as other goals set out in the Eleventh Five-year Plan. The Government apparently increased expenditure on health and education in 2006, with the 2007 budget also following the same trend.[58] Expenditure on education was set to exceed 3% of GDP in 2007, up from 2.9% in 2006, with a longer term goal of reaching 4% of GDP by 2010. The Ninth Five-year Plan for Educational Development aimed to abolish rural education fees by 2010; this was achieved in 2007. According to the authorities, the budgetary allocation for rural health was more than doubled, to Y 11.4 billion in 2007.[59] As of September 2007, 729 million (or 86% of the rural population) had joined the rural cooperative health care system.[60] Development of rural areas, another pillar of China's policy objectives, is also reflected in the recent fiscal changes, such as the introduction in 2006 of a "rural subsistence welfare system", which established a minimum living allowance for the rural poor, and the abolition in 2006 of the agricultural tax. Some measures aimed at improving rural welfare appear to have adversely affected the fiscal circumstances of local governments.[61] To the extent that fiscal transfers from the Central Government have not been sufficient to meet shortfalls in local authorities' revenues compared to their expenditures (especially on investment and salaries), local governments have apparently resorted to financing their deficits through, for example, sale of real estate.[62]

19. Pensions constitute the Government's largest contingent liability, which is expected to increase on account of China's ageing population. The present pension system covers approximately 190 million people[63]; the Government plans to extend coverage to 220 million by 2010. The Government introduced a new scheme in January 2006, involving a formula linking benefits more closely to contributions; consequently, when employees contribute for more than the minimum prescribed period (15 years), they will receive an extra percentage point of basic benefits for every extra year of contributions. The Government also plans to adopt a special budget for SOEs in 2008 making provisions for unforeseeable future expenditures, in addition to the existing National Security Fund set up in 2000; the latter is a pension fund that is expected to finance future social security

[56] Receipts from stamp duty on stock market transactions are expected to continue rising, as the Government increased the duty rate from 0.1% to 0.3% in May 2007.

[57] *China Daily*, "Special Budget", 17 September 2007. Viewed at: http://www.china.org.cn/english/GS-e/224686.htm [11 February 2008].

[58] World Bank (2007a).

[59] China spends less than 3% of its GDP on social security, and its health budget accounts for only 0.6%. China's East Asian neighbours spend, on average, 10-20% of GDP on social security and 2-8% on health. According to the authorities, the health care budget was Y 165 billion in 2007 (Y 132 billion in 2006).

[60] World Bank (2007b).

[61] These measures include: a Central Government restriction on the conversion of farmland into commercial land; banning the construction of golf courses and luxury developments on undeveloped land; and the requirement to record land sales as an on-budget item. Subnational (provincial) governments account for 70% of China's total budgetary expenditure. Provincial governments are responsible for, *inter alia*, expenditure on health, social security, and education.

[62] Local governments are ostensibly required to balance their budgets annually and are prohibited from borrowing, unless approved by the State Council.

[63] The majority of people with pension provisions are in urban areas.

expenditures. However, problems may remain, such as the large amount of legacy debt and the fragmentation and decentralization of pension schemes, which have resulted in disparities across provinces and municipalities, as well as, across enterprises.[64] Immature capital markets, which make it difficult to find suitable investments with high returns (see below), also appear to be a concern for the National Social Security Fund.

20. Recent reforms to improve fiscal transparency include: the "Golden Fiscal Project" (launched in 2006), which aims to computerize the budgeting and public expenditure processes in five years; and a new budget classification system introduced in 2006. According to the authorities, the new classification system identifies in detail all sources of government revenue (including extra-budgetary funds). Expenditure items are also reclassified and described in detail; for example, defence, diplomacy, and education have replaced previous categories such as administration, construction and institutions. Also, the budget committee of the National People's Congress (NPC) is formulating a new law on inter-government fiscal transfers, and is revising the Budget Law.

(4) MAIN STRUCTURAL REFORM ISSUES

(i) Environmental policies

21. While the Government's overriding policy objectives still appear to be strong growth and consequent poverty reduction, it has concerns over the deterioration of the environment, including pollution, which is partly the consequence of a development strategy that has tended to under-price primary resources, especially energy, used as inputs. Accordingly, the authorities have taken measures to arrest environmental deterioration. These include: reducing VAT rebates on exported goods deemed energy-intensive and highly polluting; and "green credit policies" that provide preferential credit to "environment-friendly endeavours" at the expense of energy-intensive industries.[65] The authorities also intend to shut down small coal mines and small coal-based electricity producers, and to provide subsidized loans for desulphurization. They are aware of the need to price energy inputs, such as electricity and petroleum, properly. As a result, in 2006, energy intensity (the amount of energy required for every U.S. dollar produced in the economy) fell by 1.33%, albeit significantly lower than the Government's 4% annual reduction target under the Eleventh Five-year Plan[66]; energy intensity fell by 3% in the first nine months of 2007.[67] More use of economic instruments, such as tradeable pollution permits and increased taxes on energy resources, including coal (a possible form of "carbon tax"), may be needed to achieve the Government's targets; export taxes are likely to be less effective instruments for achieving these targets (see below).

(ii) Tax reforms

22. China's recent tax reforms reflect, *inter alia*, the Government's desire to establish a more neutral internal tax system. Major reforms include, for example, unifying the enterprise income tax

[64] "Legacy debt" is unfunded liabilities from the old pension system under SOEs, which ceased in 1997.

[65] China's new green credit policy requires corporate offenders to be reported to the PBC, which penalizes these firms by restricting finance to them. Recently, 12 firms were reported and had their loans either blocked or withdrawn. For details of these measures see MOFCOM online information. Viewed at: http://www.mofcom.gov.cn.

[66] World Bank (2007b).

[67] The authorities are apparently having difficulty meeting the Government's target of reducing emissions of certain pollutants by 10% between 2006 and 2010. According to the authorities, this is due mainly to: rapid economic growth, which is outpacing improvements in energy and resource efficiency; and weak enforcement of environmental laws. Nonetheless, the authorities consider that positive results have been achieved, such as a 0.88% year-on-year decline in the emission of sulphur dioxide in the first half of 2007.

system, so that FIEs and domestic enterprises are placed on an equal tax footing, and launching pilot projects with a view to converting the current VAT from a production-based into a consumption-based tax.[68]

23. At the same time, however, the Government continues to use tax-based trade policy measures to protect the environment or reduce the current account surplus. For example, while the VAT is generally levied at 13% or 17%, depending on the goods concerned[69], VAT rebates in 2006 amounted to only 6.3% of total exports, thus falling well short of the full VAT rebate (with similar effect on exports as an appreciation of the exchange rate).[70] Insofar as the rate of rebate falls short of the rate at which the VAT is levied, the difference constitutes a levy on exports. VAT rebate rates may vary depending on products and thereby restrain exports of certain products, presumably to encourage or discourage exports or to ensure domestic supply, or, according to the authorities, for environmental reasons.[71] Additionally, the authorities introduced a 5-15% export tax on energy-intensive goods in November 2006 to reduce incentives to invest in the concerned industries, and to reduce exports (and thus the trade surplus). To the extent that these levies reduce exports of the products concerned, they tend to increase their domestic supply and thus result in lower domestic prices of these products than otherwise; this possibly assists downstream processing of these products, without necessarily helping to improve the environment or reduce the current account balance. Consequently, the effectiveness of such trade policy measures in addressing the current account surplus and environmental problems is questionable.

(iii) Financial sector reform

24. Since its previous Trade Policy Review, China has continued to adopt measures to reform its financial sector with a view to establishing a smooth-functioning capital market that would allocate savings to the most profitable investments, thereby raising the productivity of capital and thus economic growth. A smooth-functioning capital market is also key to tackling China's aging population, by ensuring that savings and pension funds can be invested with the expectation of a reasonable return. While financial sector reforms have helped to improve competition and thus the functioning of the capital market, major challenges remain.

25. China's capital market remains heavily dependent on the banking system, which is still under-developed and relatively inefficient; bank loans account for 82% of total financing from the financial sector, and the equity and bond markets account for the remainder. The banking sector is dominated by four state-owned commercial banks, whose combined share of total bank assets was 55% in 2006 (Chapter IV(5)(i)). Leaving much of China's large domestic savings in the hands of such banks, which have traditionally been the primary source of funding for SOEs, may have resulted in over-investment in certain sectors, such as manufacturing and real estate, which appear to remain among the largest sectors to which these banks' have been providing loans (Chapter IV(5)(iii)(b)). At the

[68] VAT is levied on the sale or import of goods and some services, and is production-based, thereby including capital goods in the tax base (unlike a consumption-based VAT). Thus, capital-intensive industries are penalized.

[69] Reduction in the VAT rebates on energy- and resource-intensive goods were implemented, *inter alia*, in July 2007. VAT rebate rates on goods considered to be energy intensive are now 0-5% compared with a VAT rate of 17%.

[70] See Whalley and Wang (2007a).

[71] By contrast, the business tax is a turnover tax on most services, levied at 3%, 5%, or 20%, depending on the service involved; insofar as taxed services are themselves exported or embodied in exported goods, the business tax gives rise to cascading and thus also constitutes a levy on exports. The consumption tax is essentially an excise tax levied at various combinations of *ad valorem* and specific rates on certain items, notably cigarettes, alcoholic beverages, some refined oil products including gasoline, and automobiles (Chapter III(4)(i)). The consumption tax is fully rebated on exports.

same time, relatively limited access to financing through the growing, but still underdeveloped, capital market may have induced domestic private enterprises to rely heavily on retained earnings (or funds raised from family and friends). This, along with seemingly weak corporate governance and minority shareholding rights, has apparently led to a steady increase in China's corporate savings. More than half of China's investment is financed from retained earnings; there is relatively little use of new share issues.[72] However, with the recent reforms, the authorities consider that China's capital market has developed further, corporate governance of listed companies has been improving, the interests of investors have been protected, and the confidence of investors has been strengthened.[73]

26. In order to create a more competitive banking sector, three of the Big Four state-owned commercial banks have been reformed/restructured since 2005; nevertheless, management control of these banks remains in the hands of the State. There has been no institutional change in the largest state-owned bank, the Agricultural Bank, since China's previous Review; it is currently being converted into a joint-stock company.[74] As a result of the restructuring of the state-owned banks, capital adequacy, asset quality, and NPL ratios have improved (Chapter IV(5)(i)). Nonetheless, there remain concerns regarding NPLs held by state-owned asset management companies and "special mention loans", which fall under a grey area between normal and non-performing loans. The former are a significant contingent liability for the Government, while the latter are vulnerable to an economic downturn and could add to existing NPLs.

27. Since 2004, the securities market has also undergone reform and restructuring and grown rapidly, although the Government has recently tried to stabilize the growth by increasing stamp duty and prohibiting lending for investment in the equity markets.[75] Apart from China's overall economic growth and rapid growth in corporate profits, the reasons for the market growth appear to lie partly in the lack of other investment opportunities; for example, real deposit rates are low, investment in real estate is discouraged by the Government, and the lack of flexibility in the exchange rate, coupled with capital controls, makes investment abroad or in foreign exchange denominated instruments difficult.[76] As mentioned earlier, the authorities have taken steps recently to ease capital account restrictions, while also developing the domestic securities market by reforming non-tradeable shares to tradeable ones, and establishing an investor protection fund (Chapter IV(5)(iii)(c)). According to the authorities, the reform has been nearly completed; the stocks of almost all companies can be traded on the stock market after a certain "lock-up period". They consider that the reform has placed small and large shareholders on an equal footing, improved corporate governance of listed companies, and thereby substantially contributed to the growth of the capital market in China. In addition, to ensure better transparency and governance in the securities market, the authorities implemented a risk-based supervisory system in August 2007.[77]

[72] Aziz et al. (2007).

[73] The authorities expect financing through the capital market to exceed Y 800 billion in 2008.

[74] In January 2007, Premier Wen Jiabao announced share holding reform in the Agricultural Bank of China as a first step toward its listing, although no time period was set. Additionally, Central Huijin Investment Corp, the PBC's investment arm, announced plans to invest US$40 billion in the Agricultural Bank for its restructuring in August 2007 (China Economic Information Network online information. Viewed at: http://www1.cei.gov.cn/ce/doc/cen2/200708061035.htm [11 February 2008]).

[75] World Bank (2007a).

[76] The lack of flexibility in the exchange rate may deter investment abroad, as the exchange rate losses associated with a possible appreciation of RMB would negatively affect the return on such investment. The enforcement of capital controls tends to be difficult; such controls can be circumvented, for example, by transfer pricing.

[77] Information provided by the China Securities Regulatory Commission.

28. Reform of the bond market is ongoing. Reforms include the recent promulgation of new rules allowing qualified firms to issue corporate bonds, while the new Company Law abolishes the quota on the issuance of corporate bonds, thus making the bond market accessible for all qualified companies.[78]

29. The authorities have taken initiatives to allow small and medium-sized domestic private enterprises (SMEs) better access to the capital market, such as the creation of a separate sub-board for SMEs in the Shenzen Stock Exchange in 2004. As of December 2007, the SME board had 202 listed firms and a market capitalization of Y 1,052.6 billion.

30. The recent move by the Government to require SOEs to distribute dividends would tend to increase these enterprises' reliance on the issuance of new shares and corporate bonds to finance their new investments, and thus help support the development of the equity and bond markets.

(iv) Labour market

31. A flexible labour market is a prerequisite for the Government's policy objectives of maintaining strong economic growth and reducing income inequality. Nonetheless, there is an overall surplus in the labour market in spite of labour shortages in certain areas. It was estimated that in 2006, approximately 25 million people in China sought employment, while 11.84 million new urban jobs were created.[79] In 2007, 12.04 million new jobs were created; however, the authorities estimated that five million new graduates would join the labour force.

32. In the longer term, China's ageing population is a concern, as 11% of the population (or approximately 144 million) are over the age of 60 (require pensions), with the figure expected to rise to 20% (290 million) by 2025.[80] While this demographic change, with more people expected to leave than enter the labour force, could free up more jobs, it will also require higher labour productivity to maintain current economic growth.

33. Certain employment restrictions under the "Hukou" (worker registration) system have been relaxed to promote the development of rural areas and address income inequality.[81] Nonetheless, the system still distinguishes between urban, rural, temporary, and permanent workers. This puts workers registered in rural areas seeking jobs in urban areas (migrant workers) at a disadvantage, as their entitlements to health care, housing, and education for their children, are not sufficiently provided for by the employers or local authorities.

34. The All China Federation of Trade Unions (ACFTU) and the Central Government have made improved working conditions for migrant workers an important policy goal. The Employment Promotion Law, which entered into force on 1 January 2008, aims to provide a legal framework to promote employment in China, while at the same time making it illegal to discriminate (for example with regard to gender, race, nationality and religion) in employment. A nationwide employment

[78] Information provided by the China Securities Regulatory Commission.

[79] Among the 25 million, 9 million were first time job seekers including new graduates and "migrants" (from rural to urban areas), while the rest were largely workers made redundant by SOEs (Asian Development Bank, 2006a and 2007).

[80] For women, the retirement age in China is usually 50 years old.

[81] It would appear that the Government recently relaxed the "Hukou" registration requirements for foreign-university graduates, who would be exempted from registration if they returned to China to work after graduation; over 1 million students have gone abroad to study and only 25% have returned.

assistance system is to be introduced.[82] In addition, the Labour Contract Law, which entered into force on 1 January 2008, aims to strengthen the role of unions with regard to termination of employment; the Law requires the use of labour contracts, and addresses collective contracts and part-time workers through separate clauses. Furthermore, in January 2004, the Ministry of Labour and Social Security (MLSS) issued regulations that provided specific rules for the consultation process for collective contract bargaining.[83] Other related laws and regulations include the Minimum Wage Regulations (amended), which entered into force on 1 March 2004, and the Labour Law, which requires all workers to have contracts.[84]

(5) DEVELOPMENTS IN TRADE

(i) Composition of merchandise trade

35. Between 2004 and 2007, merchandise exports grew at an average annual rate of around 27%, to reach US$1,218 billion. Exports are dominated by manufactures, whose share in total exports increased from 91.4% in 2004 to 93.2% in 2007. By contrast, the share of primary products declined from 8.4% to 6.6%, and the share of agricultural exports from 4.1% to 3.2%. The shares of comparatively low-value-added manufactures, such as textiles and clothing, has also declined (Table AI.1).

36. Imports have grown at a slower pace than exports, at an average 19.4% annually between 2004 and 2007, to reach US$955.8 billion (Chart I.1). The share of primary products as a proportion of total imports has been rising; the impetus has come from fuel, whose share of imports rose by 2.4 percentage points (Table AI.2). This increase is largely attributed to the rise in international crude oil prices; the share of manufactures in total imports has declined.

37. The robust growth of exports of manufactured products can partly be attributed to heavy domestic investment in manufacturing in recent years. This has resulted in new production (and export) capacity, especially in steel and machinery: China has become a net exporter of steel, having previously been a net importer. Additionally, a large portion of the increase in exports is apparently on account of higher value-added varieties of products. Between 1993 and 2005, the number of tariff line items China exported to the United States doubled. As a consequence, half the increase in the value of China's exports is due to new categories of goods.[85] Part of the slowdown in import growth can be attributed to import substitution and the broadening of supply chains within China, as reflected in the decline in the ratio of imports to exports in processing trade since 2005.[86]

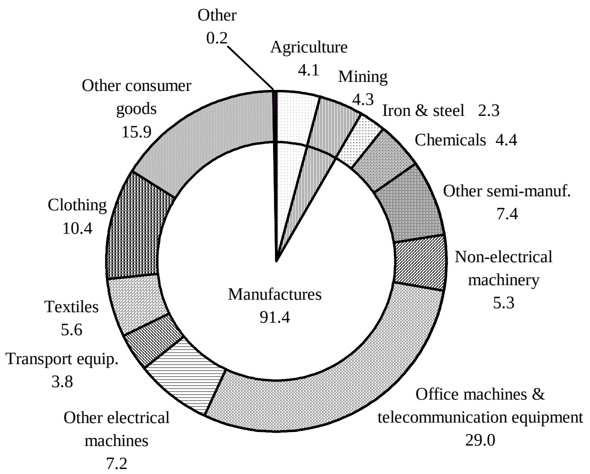
[82] Assistance may include: tax reductions; preferential loans; subsidizing social insurance; creation of jobs through public investment; and assistance to particular areas where there is high unemployment due to the restructuring of the local economy and exhaustion of natural resources.
[83] At end 2006, 64% of 152,000 foreign firms were unionized.
[84] The Labour Law entered into force on 1 January 2005.
[85] World Bank (2006a).
[86] World Bank (2006b).

Chart I.1
Product composition of merchandise trade, 2004 and 2007

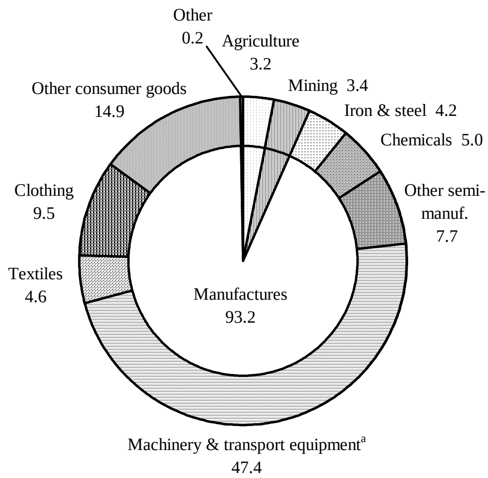
Per cent

2004 | **2007**

(a) Exports (f.o.b.)

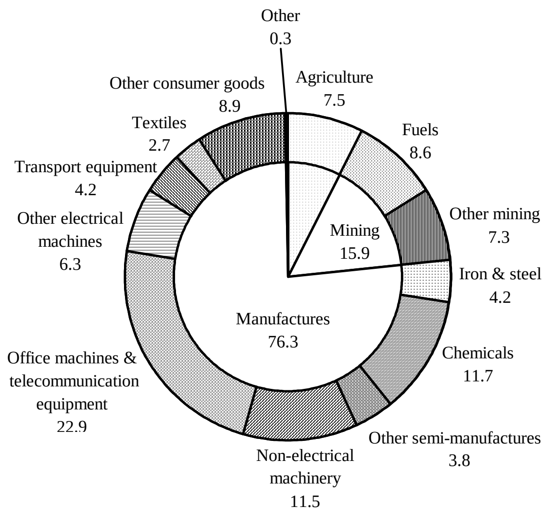


Total: US$593.3 billion

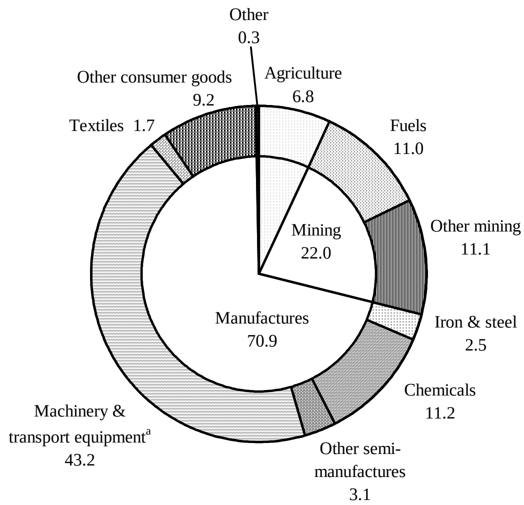


Total: US$1,218.0 billion

(b) Imports (c.i.f.)



Total: US$561.2 billion



Total: US$955.8 billion

a **Including non-electrical machinery, office machines & telecommunication equipment, other electrical machines, and transport equipment.**

***Source*: UNSD, Comtrade database (SITC Rev.3), and General Administration of Customs (2007), *China's Customs Statistics: Monthly Exports & Imports*, 12, Series No. 220.**

(ii) Direction of merchandise trade

38. The main destinations for China's merchandise exports are the EC-25, the United States, the SAR of Hong Kong (presumably involving largely entrepôt trade), and Japan (Table AI.3). Since 2004, the shares of exports to the EC-25 and the United States in China's total exports have changed marginally, from 18.1% and 21.1%, respectively, in 2005 to 20.1% and 19.1% in 2007. By contrast, the shares of the Hong Kong SAR and Japan, as well as Asia as a whole, have declined markedly.

39. The main sources of China's imports in 2007 were Japan (14.0%), EC-25 (11.6%), Republic of Korea (10.9%), Chinese Taipei (10.6%), and the United States (7.3%) (Chart I.2); their shares in China's total imports have declined since 2004 (Table AI.4). On the other hand, the import shares of Africa and the Middle East have risen, presumably due to China's higher demand for energy and other natural resources.

40. China is an export platform for the rest of Asia, as reflected in its bilateral trade balances. China runs a bilateral trade deficit with Asia as a whole, with particularly large deficits with Chinese Taipei, Korea and Japan. On the other hand it has large surpluses with the United States and EC-25. This pattern of bilateral surpluses and deficits reflects China's role as an export platform, especially for Asian countries, such as Japan, Korea and Chinese Taipei, which export components to China, where they are assembled for export, particularly to the United States and EC.

(iii) Composition of trade in services

41. Services comprised 8.7% of China's total exports and 11.8% of its imports in 2006 (the latest year for which the full year data are available), compared with 9.5% and 11.9%, respectively, in 2005. Merchandise exports grew faster than services exports, while services and merchandise import growth was almost the same. Travel, business, and transport were the main services traded (Chart I.3). Imports of consulting services (research and development) have been increasing rapidly, growing by approximately 32% in 2005 and 36% in 2006 to reach US$8.4 billion.

(iv) Foreign investment

42. China continues to attract considerable amounts of foreign direct investment (FDI), much of it in export-oriented industries. FDI has also been a major source of employment. FDI in China decreased marginally, from US$79.1 billion in 2005 to US$78.3 billion in 2006, or 3.5% and 3.0% of GDP, respectively.[87] The importance of FDI to the Chinese economy can be gauged by its stock of FDI as a share of GDP, which was nearly 21% in 2006. Furthermore, foreign companies in China accounted for over 57% of China's exports and 60% of imports in 2004. Moreover, manufacturing FIEs accounted for 22% of GDP and 40% of China's recent growth; employing approximately 24 million people (about 3% of the labour force), FIEs labour productivity is more than nine times that in the rest of the economy.[88]

[87] The FDI numbers from SAFE are based on pledged amounts; MOFCOM numbers differ as they are based on realized amounts.

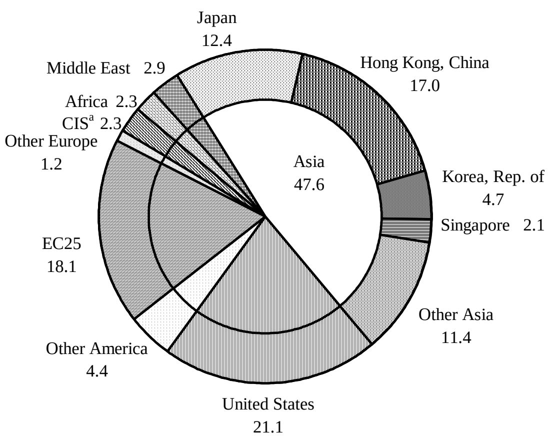
[88] Whalley and Xian (2006).

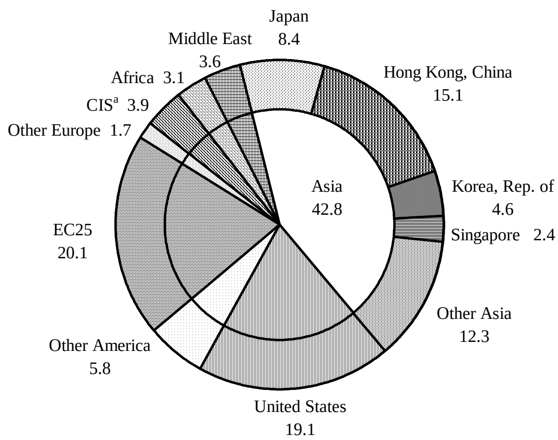
Chart I.2
Direction of merchandise trade, 2004 and 2007

Per cent

2004 **2007**

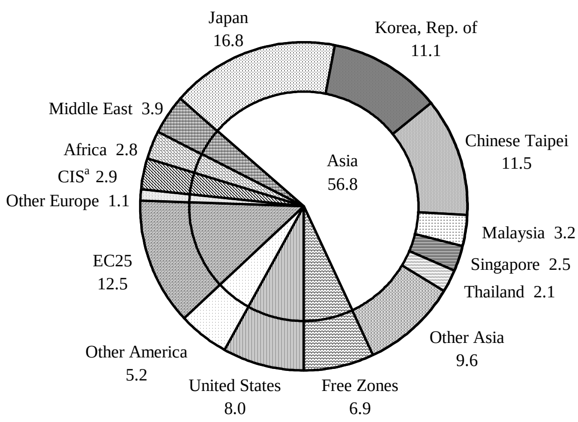
(a) Exports (f.o.b.)

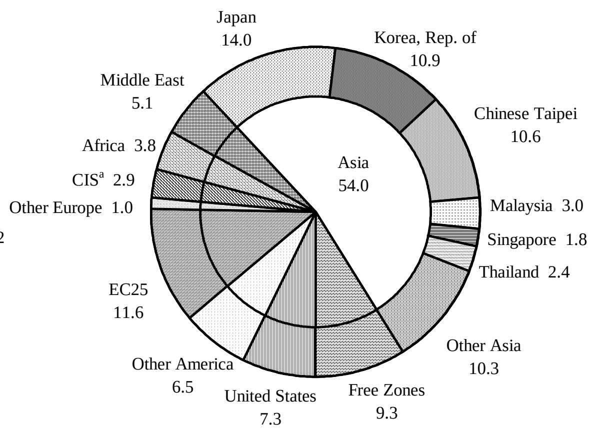




Total: US$593.3 billion **Total: US$1,218.0 billion**

(b) Imports (c.i.f.)





Total: US$561.2 billion **Total: US$955.8 billion**

a **Members of the Commonwealth of Independent States (CIS) are listed in Tables AI.3 and AI.4.**

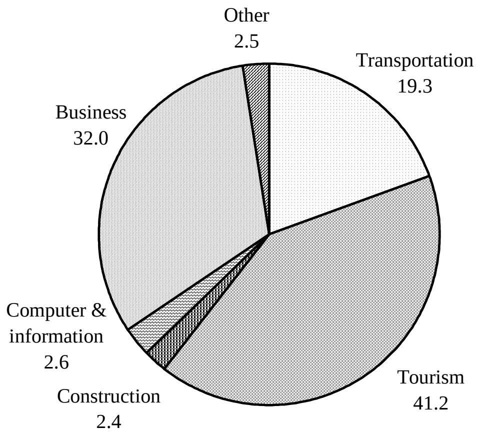
Source: **UNSD, Comtrade database (SITC Rev.3), and General Administration of Customs (2007), *China's Customs Statistics: Monthly Exports & Imports*, 12, Series No. 220.**

Chart I.3
Trade in services, 2004 and 2006[a]

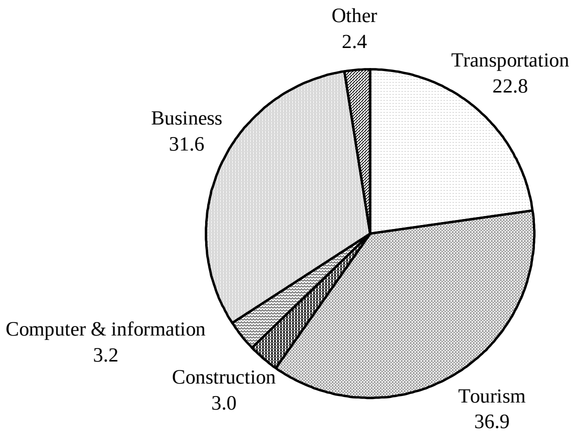
Per cent

2004 **2006**

(a) Exports

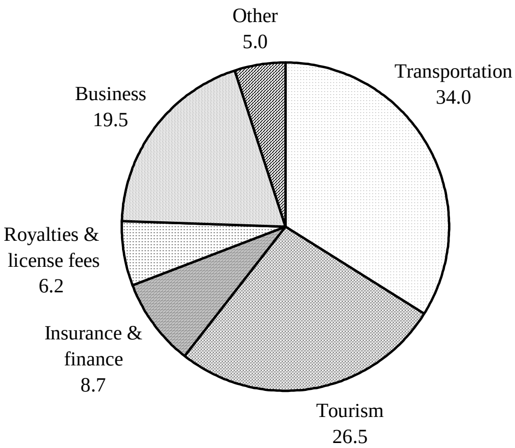


Total: US$62.4 billion

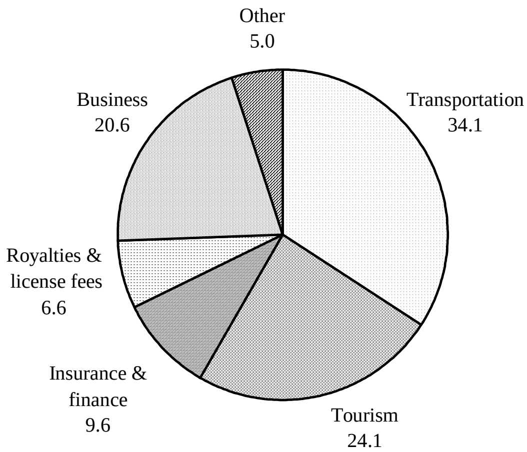


Total: US$92.0 billion

(b) Imports



Total: US$72.1 billion



Total: US$100.8 billion

a The latest year for which the full year data are available.

***Source*: State Administration of Foreign Exchange online information. Viewed at: http://www.safe.gov.cn/model_safe/tjsj_detail.jsp [25 February 2008].**

43. In 2006, China's main source of FDI was the Hong Kong SAR, which accounted for about one third of the total, followed by the British Virgin Islands (18%), EC-15 (8.5%), Japan (7%), Korea (6.2%), the United States (4.5%), and Chinese Taipei (3.4%). A significant part of the inflows from Hong Kong SAR and other sources (the British Virgin Islands, Western Samoa, and the Cayman Islands) presumably originated from other countries, including China itself, with part of such capital possibly being recycled through these territories (some of which are tax havens) in order to benefit from the preferential tax treatment offered by China to foreign-based companies. Part of FDI inflows, therefore, may involve "faked foreign investment" or "round tripping".[89]

44. Outward FDI from China jumped from US$1.8 billion in 2004 to US$17.3 billion in 2006.[90] A large portion of the outward flow reflects China's efforts to secure natural resources and fuel so as to be able to sustain its high growth rate.[91] With China holding more than US$1.5 trillion in foreign exchange reserves (as of December 2007), the growth in outward FDI looks likely to continue.

(6) OUTLOOK

45. With continuing strong growth in the latter half of 2007, China's annual growth rate was estimated at 11.4%, which was higher than the average rate achieved during 2003-06. Consequently, the Government's target of doubling GDP per capita in 2010 relative to 2000, as set out in the Eleventh Five-Year Plan, would appear to be within reach. Furthermore, with its vast human resources, high rate of investment in physical and, to a lesser extent, human capital, strong growth in labour productivity, and increasingly market-oriented economy, open to international trade and foreign investment (and associated technology), China has the potential to sustain its rapid growth in the foreseeable future, albeit at a somewhat slower rate as its economy matures and its labour force starts to shrink (largely as a result of its one-child policy). In order to realize this potential, however, China needs to continue to address a number of important social and economic challenges, including various economic imbalances, which could jeopardize the economy's stability and thus the achievement of a "harmonious society".

46. First, there is the challenge posed by widening income disparities among regions and between urban and rural areas, one of the primary causes of which is wage differentials reflecting differences in labour productivity. A related challenge is the need to facilitate the movement of surplus labour from relatively low-productivity agriculture into other activities, notably services, which tend to be more labour-intensive than manufacturing. Moreover, as growth in the labour force slows, technological progress will assume much greater importance as a source of economic growth and productivity improvement, so that China needs to continue to pursue its goal of substantially raising expenditure on R&D as a percentage of GDP. China also needs to proceed with its plans to increase government spending on social services, such as health and education, and thus human capital, as well as basic pensions, thereby possibly reducing the need for precautionary saving and thus raising consumption. These and other measures to increase consumption would not only reduce China's reliance on exports for growth, and hence its vulnerability to economic slowdowns abroad, but would

[89] Xiao (2004). In addition to the preferential tax treatment of foreign enterprises, a reason given for such round tripping is that the Chinese authorities and the legal system offer better intellectual property rights protection to foreign companies. Some estimates (Xiao (2004) and Dees (1998)) suggest that approximately 20% of the FDI flows originating from the Hong Kong SAR are actually round tripping.

[90] State Administration of Foreign Exchange online information. Viewed at: http://www.safe.gov.cn [6 August 2007]

[91] During 2006 over 40% of China's outward FDI flow was in mining, while investment in mining constituted approximately 20% of China's outward stock (32% and 13%, respectively, in 2004).

also narrow the gap between national saving and gross domestic investment and therefore help to reduce China's large current account surplus.

47. Another way of reducing China's high propensity to save would be by channelling savings into the most profitable investments, thus improving the productivity of capital in the economy as a whole; this requires ongoing reform of the capital market to render it more efficient (and improve the transmission, and thus operation, of monetary policy). In addition, impediments to the efficient allocation of land, energy, water, and other natural resources, such as price controls, need to be gradually dismantled; this would help protect the environment, especially if supplemented by market-based tax and non-tax instruments, based on the "polluter pays" principle, for example, to correct market failure. There is also the challenge of tax reforms that would render the tax system (especially the VAT and enterprise income tax) more neutral with respect to economic decisions, so that it raises sufficient revenues in an administratively simple and equitable way in order to meet China's developmental needs, including expenditures mentioned above, while minimizing consequent distortions in the domestic allocation of resources and trade.

48. Although no forecasts of economic growth for 2008 were available from the authorities, the World Bank envisages a slowdown to 9.6% owing to decelerating exports and a weakening global outlook. Such a slowdown will bring the growth rate more into line with the Government's target of 8%, something that macroeconomic policies, especially monetary policy, have hitherto proved ineffective in achieving. Such a cooling of the economy could reduce inflationary pressure and contribute to its re-balancing. Nonetheless, there remains the immediate issue concerning the ability of monetary policy to combat rising inflation. In this regard, a more flexible exchange rate regime could enable China to operate a more independent monetary policy, which would be better suited to ensuring a low and stable rate of inflation, and therefore contribute to a macroeconomic environment more conducive to sustained strong economic growth. A more flexible exchange rate and thus more independent monetary policy would complement structural reforms, especially those concerning the capital market, and obviate the need for price controls and other non-market measures to contain inflation. There are signs that China's exchange rate regime has become more flexible recently; in January 2008, the renminbi appreciated nearly 1.6% in relation to the U.S. dollar, the largest monthly increase since the July 2005 reform of the foreign exchange regime.

II. TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES

(1) INTRODUCTION

1. The overall aim of China's trade policy, which has remained unchanged since its previous Trade Policy Review, is to accelerate the opening of its economy to the outside world to introduce foreign technology and know-how, develop foreign trade, and promote "sound economic development". China aims to further strengthen the multilateral trading system; at the same time, it has been intensifying its pursuit of bilateral/regional free-trade agreements with some of its trading partners.

2. China has continued to place high emphasis on the multilateral trading system and has been participating in the Doha Development Agenda negotiations. China grants at least MFN treatment to all WTO Members except El Salvador and some territories of EC member states. China has been a party to one dispute as a complainant and nine disputes as a respondent since 2006.

3. During the period under review, two free-trade agreements entered into force (China – Chile FTA on 1 October 2006, and China – Pakistan FTA on 1 July 2007). The Agreement on Trade in Services of the China–ASEAN Free Trade Area also entered into force on 1 July 2007. Four further agreements (with Australia, Gulf Cooperation Council, Iceland, and New Zealand) are being negotiated.

4. China unilaterally grants preferential treatment to some products from 39 least developed countries (LDCs).

5. Although some aspects of China's trade policy regime remain opaque, it has continued to adopt measures to increase the level of transparency of its trade and trade-related policies, practices, and measures. Since its previous Review, additional measures, such as the Regulation on Open Government Information, have been introduced with a view to enhancing transparency. The National Corruption Prevention Bureau was established on 13 September 2007. Since its previous Trade Policy Review in 2006, several new trade-related laws have been adopted, including the Property Law, the Enterprise Income Tax Law, the Anti-Monopoly Law, and the Law on Enterprise Bankruptcy.

6. China has recently been moving towards achieving a level playing field for foreign and domestic investors in China. Until the end of 2007, China had provided better than national treatment in its taxation policies for foreign-invested enterprises (FIEs); since 1 January 2008, a uniform enterprise income tax rate of 25% has been applied to all enterprises (including FIEs) in accordance with the Enterprise Income Tax Law, with some exceptions, such as certain "grand fathering" and lower rates granted for investment in certain industries. It would appear that all tax incentives now apply equally to domestic firms and FIEs. Several regulations and rules have been introduced or amended with a view to further liberalizing foreign direct investment and establishing a more rules-based and predictable business environment for foreign investors.

(2) INSTITUTIONAL AND LEGAL FRAMEWORK

7. Since its previous Review, China's institutional and legal framework has remained largely unchanged. The current Constitution states, *inter alia,* that "sole proprietorship", "domestic private", and other non-public sectors of the economy, within the limits prescribed by law, are major

components of the "socialist market economy".[1] It also explicitly provides for the protection of private property rights in Article 13, which states that a "citizen's lawful private property is inviolable". The role of the Communist Party of China (CPC) in the NPC's legislative and law enforcement activities has also largely remained unchanged.[2] The most recent amendment to the Constitution was adopted on 14 March 2004.

(i) Institutional structure

(a) Legislature

8. Under the Constitution, the National People's Congress (NPC) is the highest organ of state power, and its permanent body is its Standing Committee.[3] The NPC and its Standing Committee exercise the legislative power of the State. The NPC enacts and amends, *inter alia*, criminal, civil, and other "basic" laws.[4] The Standing Committee enacts and amends laws, except for example the Foreign Trade Law and the Customs Law, which are enacted by the NPC. The NPC has the power to elect and remove from office the President and Vice President of the People's Republic of China. The term of office of the President and Vice-President is five years; they can serve no more than two consecutive terms.[5]

(b) The Executive

9. Executive power is vested in the State Council, which is the Central Government.[6] The Premier is approved by the NPC upon nomination by the President. The term of the State Council is five years, and the Premier, Vice Premiers, and State Councillors may serve no more than two

[1] The authorities classify China's economic entities into public and "non-public"; the latter includes sole proprietorships, domestic private enterprises, and foreign invested enterprises (FIEs). Article 11, as translated into English by the authorities, states: "Individual, private and other non-public economies that exist within the limits prescribed by law are major components of the socialist market economy. The State protects the lawful rights and interests of individual and private economies, and guides, supervises and administers individual and private economies." (Constitution of the People's Republic of China. Viewed at http://english.peopledaily.com.cn/constitution/constitution.html [11 February 2008].)

[2] See WTO (2006), p. 31.

[3] The NPC is composed of deputies from provinces, autonomous regions, municipalities directly under the Central Government, the special administrative regions, and from the armed forces. It has a term of five years, meets in session once a year, and is convened by its Standing Committee. There are a maximum of 3,000 deputies.

[4] These include, for example, the Organic Law of the State Council, and the Organic Law of the Local People's Congresses and Local People's Governments.

[5] The NPC's other functions include: amending the Constitution; approving the Premier of the State Council, upon nomination by the President; examining and approving the national economic and social development plan, the state budget, and their implementation reports; altering or annulling inappropriate decisions of its Standing Committee; electing the President of the Supreme People's Court and the Procurator-General of the Supreme People's Procuratorate; approving the establishment of provinces, autonomous regions, and municipalities directly under the Central Government; and making decisions on the establishment of special administrative regions and their institutional systems. The functions of the President include: promulgating statutes adopted by the NPC or its Standing Committee; appointing and removing, *inter alia*, the Premier, Vice-Premiers, State Councillors, Ministers in charge of ministries or commissions, and the Auditor-General of the State Council, in accordance with the decisions of the NPC and its Standing Committee. The President ratifies or abrogates treaties and "important" agreements concluded with foreign states, in accordance with the decisions of the NPC Standing Committee. The President does not have the power to veto laws that have been adopted by the NPC or its Standing Committee.

[6] The State Council is composed of the Premier, Vice-Premiers, State Councillors, Ministers, the Auditor-General, and the Secretary-General.

consecutive terms. The State Council's functions include: formulation, adoption, and enactment of "administrative regulations" in accordance with the Constitution and laws; submission of proposals to the NPC or its Standing Committee; the exercise of leadership over the work of local organs of state administration, and determination of the functional divisions between central and local authorities[7]; drafting and implementing the national economic and social development plan and the state budget, and the direction and administration of urban and rural development work; and the conclusion of treaties and agreements with other states. The State Council reports to the NPC or, when the NPC is not in session, to its Standing Committee.

(c) The Judiciary

10. China's judicial system consists of the Supreme People's Court, the local people's courts at different levels, and military and other special courts (e.g. railway and maritime).[8] Under the Constitution, the people's courts exercise judicial power independently and are not subject to interference by administrative organs, public organizations or individuals.[9] The Constitution also stipulates that the National People's Congress elects and has the power to recall or remove from office the President of the Supreme People's Court[10], and the Standing Committee of the NPC is empowered, in accordance with the suggestion of the President of the Supreme People's Court, to appoint and remove: the vice-presidents and judges of the Supreme People's Court; members of its Judicial Committee; and the President of the Military Court. Article 67 of the Constitution stipulates that the Standing Committee of the NPC is empowered to supervise the work of the Supreme People's Court. Article 125 of the Constitution stipulates that all cases handled by the people's courts, except for those involving special circumstances as specified by law, must be heard in public.

11. Law enforcement has traditionally been based on intermediation rather than recourse to the courts, although this appears to be changing gradually; according to the authorities, most legal disputes are now resolved through the courts, with some resolved through intermediation under the auspices of the courts. The difficulty of law enforcement in China is attributed to several factors, including protection of local interests.[11]

12. Since its previous Review, there has been no change in China's judicial review process or for appeal regarding administrative actions related to the implementation of laws, regulations, judicial decisions, etc. in trade in goods and services, investment, and intellectual property rights. Between

[7] China is divided administratively into provinces, autonomous regions, special administrative regions, and municipalities directly under the Central Government. In addition to the central and provincial levels, administrative jurisdictions are further sub-divided into prefecture-level cities (including autonomous prefectures), counties (including autonomous counties), and townships (including ethnic townships). Local people's congresses at different levels are the local organs of state power. Executive power at the local level is vested in local governments, which report to people's congresses at corresponding levels, or when the people's congresses are not in session, to their standing committees. Local governments report to the state administrative organs at the next level. Local governments are state administrative organs under the leadership of State Council and are subordinate to it.

[8] The Supreme People's Court comprises the Judicial Committee, the No. 1 Criminal Tribunal, the No. 2 Criminal Tribunal, the Civil Tribunal, the Economic Tribunal, the Administrative Tribunal, the Complaint and Appeal Tribunal and the Communication and Transportation Tribunal (see WTO (2006) for further details).

[9] Article 126.

[10] Articles 62 and 63.

[11] The Constitution stipulates that local people's congresses at and above the county level, elect, and have the power to recall, presidents of people's courts at the corresponding level (Article 101), and the standing committee of a local people's congress at and above the county level supervises the work of the people's court at the corresponding level (Article 104), thus creating a strong incentive to protect local interests and for greater political involvement in judicial decision making.

1 January 2006 and 11 September 2007, the NPC adopted 22 laws (including five amendments) and eight decisions concerning legal issues; it abolished two laws. During the same period, the State Council enacted 48 administrative regulations (including eight amendments); it abolished 24 regulations.[12] There were also several trade-related judicial interpretations of the Supreme People's Court (and the Supreme People's Procuratorate); these include judicial interpretations on IPR cases issued in April 2007 and February 2008.[13]

13. Decisions by the lower courts can be appealed to higher courts. The judgement and order of a people's court of second instance is final, and cannot be appealed further; however, in criminal cases, if the procuratorate feels that there is an error in a judgement by a people's court, it can file a protest against the judgement to a people's court at the same level, which then conducts a retrial.[14]

14. China is party to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (for commercial disputes only). Both China's "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.

15. Under the Constitution and the "Law on the Procedures of the Conclusion of Treaties", the WTO Agreement falls within the category of "important international agreements", subject to ratification by the Standing Committee of the NPC.[15] The WTO Agreement and China's Protocol of Accession are implemented domestically through enabling legislation. Individuals and enterprises can bring to the attention of the national authorities cases of non-uniform application of the trade regime.[16]

(ii) Legal structure and the legislative process

16. Legislation in China includes the Constitution, laws, administrative regulations, departmental rules, local regulations, and rules. The Constitution is the highest law, followed by laws and administrative regulations; national administrative regulations take precedence over local regulations and rules.[17]

[12] Currently, local governments from 31 provinces, autonomous regions and municipalities, and 49 large cities have the right to formulate local regulations (these are called local governments "with legislative power"). Between 1 January 2006 and 11 September 2007, local people's congresses and their standing committees "with legislative power" adjusted 287 local rules, 16 SAR rules, and 72 separate regulations; they abolished 85 rules. During the same period, local governments "with legislative power" enacted 105 local rules; they abolished 305 rules.

[13] The Supreme People's Court website. Viewed at: http://ww.court.gov.cn/lawdata/explain [12 March 2008].

[14] Articles 203 to 207 of the "Criminal Procedure Law".

[15] Ministry of Foreign Affairs online information. Viewed at: http://www.fmprc.gov.cn/chn/wjb/zzjg/tyfls/tfsckzlk/xggnlf/t70826.htm [11 February 2008].

[16] See WTO (2006), p. 33 for details.

[17] The NPC has the power to alter or annul laws formulated by its Standing Committee; the Standing Committee of the NPC has the power to annul administrative regulations that contradict the Constitution and laws or local regulations that contradict the Constitution, laws, and administrative regulations; the State Council has the power to annul departmental and local government rules that are deemed inconsistent with the Constitution and laws.

17. Under the Legislation Law, the "basic" economic system, finance, taxation, customs, banking, and foreign trade must be governed only by law.[18] The Law Committee under the NPC organizes discussions and conducts a review of all draft bills on the NPC's agenda, based on the opinions of delegates and special committees.[19] With regard to legislative bills on the agenda of a session of the NPC, the legal committee, relevant special committees, and the Standing Committee of the NPC must solicit opinions from related authorities and citizens through, *inter alia*, fora such as seminars, expert meetings, and hearings[20]; it would appear that draft laws are published in some, if not all, cases. These related authorities and citizens can make comments or suggestions concerning the draft bills. In 2006, 101 legislative hearings and 1,579 panel discussions were held among 29 local governments "with legislative power" and 45 agencies led by the State Council; 490 proposed regulations were subject to public comment procedures. No information was available on the amount of draft legislation and regulations for which opinions were not solicited. Bills are usually deliberated on at three meetings of the Standing Committee before being voted upon.

18. Administrative regulations are formulated by the State Council. The draft is prepared by ministries or commissions, which may organize seminars, expert meetings, hearings, etc. to solicit the opinions of other ministries or the public. According to the authorities, during the drafting process, international fora may be held and foreign-invested enterprises (FIEs), foreign chambers of commerce and foreign experts invited to participate in consultations. The drafts are reviewed by the SCLAO. Drafts of regulations "directly beneficial" to citizens, legal persons, or other organizations, are, after approval by the State Council, issued for public comment. Drafts approved by the standing committee of the State Council enter into force after being signed by Premier. The regulation is then published in the State Council's Gazette and in national newspapers.

19. Departmental rules, issued by ministries, commissions, and other regulatory agencies directly under the State Council, are published in the State Council or departmental Gazette, and in national newspapers. Under the Legislation Law, the Government must seek opinions from various sources or public comments on drafts of these rules before issuing the final rules.

20. Provinces, autonomous regions, municipalities directly under the Central Government, and certain large cities may formulate local regulations and rules. They may formulate regulations on matters needing specific provisions due to conditions in the respective administrative area, in order to implement the provisions of laws or administrative regulations; and on matters of local character that require formulation of local regulations. They may also formulate rules required to implement provisions of laws, administrative regulations, and local regulations; and rules on specific administrative matters pertaining to the respective administrative areas. Local governments must organize seminars, expert meetings, hearings and publicize the draft to solicit written opinions of ministries or the public.

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[18] If laws have not been enacted on these matters, the NPC or its Standing Committee may authorize the State Council to formulate administrative regulations.

[19] Legislative bills may be submitted to the NPC or its Standing Committee, by any of the following: the State Council, the Central Military Commission, the Supreme People's Court, the Supreme People's Procuratorate, a special committee of the NPC, a delegation or a group of thirty or more deputies, or ten or more Standing Committee members. The Rules on Procedures for Formulating Administrative Regulation also set out which laws are to be formulated by the State Council. Ministries or commissions preparing a draft law solicit opinions of other ministries or public by, *inter alia*, organizing seminars, expert meetings or hearings. Draft laws are reviewed by the State Council's Legislative Affairs Office (SCLAO) to ensure their conformity with, *inter alia*, the Constitution and existing laws.

[20] It would appear that while "lobbying" in China has become more prevalent, no laws regulating lobbying activities seem to exist (Cha (2007)).

(iii) Transparency

21. During the past two years, China has continued to take steps to improve transparency, including notifications to the WTO and participation in the TPRM. Nonetheless, some aspects of China's trade policy regime remain complex and opaque.[21] This leaves scope for administrative discretion and thus corruption. The Government recently adopted various measures to enhance transparency in the public sector. In 2005, the General Office of the State Council issued the Opinion on Further Enforcing Government Administration Publication. The Opinion, *inter alia,* clarified main publication requirements for government administration.

22. Since China's previous Trade Policy Review, one of the Government's key objectives has been prevention and reduction of corruption and it has continued to adopt measures to enhance transparency in the public sector. China's emphasis on cracking down on corruption was reiterated, for example, in a speech by the President at the 17th National Congress of the CPC, held in October 2007, where he called upon CPC members to carry out the anti-corruption campaign in a comprehensive manner, addressing both its symptoms and root cause, and called for both prevention and punishment.[22]

23. On 5 April 2007, the State Council promulgated the Regulations on Open Government Information, which is to enter into force on 1 May 2008.[23] The Regulations are intended to reduce corruption by "keeping the government open and transparent in exercising its power".[24] The Regulations stipulate, *inter alia*, requirements for disclosure of government information. Under Article 9, administrative agencies must disclose government information that: involves the vital interests of citizens, legal persons or other organizations; needs to be broadly known to the public; reflects the structure, functions, procedures and conditions related to the administrative agency; and other information that should be disclosed in accordance with other laws and regulations. In addition, the General Office of the State Council is in charge of promoting, guiding, coordinating, and supervising the disclosure of government information, and local governments are to establish "public institutions of government information".[25] However, government officials are apparently not able to release information deemed to be secret or that might "threaten national, public or economic security or social stability", thereby possibly leaving considerable scope for non-disclosure of information.[26]

24. On 8 July 2007, the Supreme People's Court and Supreme People's Procuratorate jointly promulgated a Circular on the Opinions to Address the Issues in Handling Criminal Cases Involving the Taking of Bribes; it explicitly classifies certain acts by government officials, such as securing

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[21] China ranked 44th among 48 countries on the 2004 Opacity Index, which measures the degree to which countries lack clear, accurate, easily discernible, and widely accepted practices governing the relationships among governments, businesses, and investors (WTO (2006), Chapter II(2)(iv))). According to a 2007 Corruption Perceptions Index, which measures perceptions of corruption among public officials and politicians in 180 countries, China ranked 72nd, with a score of 3.5 out of 10 (Transparency International. Viewed at: http://www.transparency.org [11 February 2008]); in 2005, it ranked 78th (out of 159 countries) with a score of 3.2.

[22] *China Daily* online, "Hu Jintao: No tolerance to corruption". Viewed at: http://english.people.com.cn/90002/92169/92187/6283181.html [11 February 2008].

[23] Central Government online information. Viewed at: http://www.gov.cn/zwgk/2007-04/24/content_592937.htm (in Chinese) [11 February 2008].

[24] China Development Brief (2007). Viewed at: http://www.chinadevelopmentbrief.com/node/1111 [11 February 2008].

[25] Article 4 of the Regulations.

[26] Article 14 of the Regulations and *Financial Times,* 24 April 2007.

benefits for someone and, in return, accepting corporate shares from the person without due payment, as bribery.[27]

25. On 13 September 2007, the National Corruption Prevention Bureau, which reports directly to the State Council, was established. The Bureau is responsible for assuring the transparency of government information at various levels, with a view to preventing corruption, and studying measures to prevent and reduce corruption; the Bureau is to monitor the flow of suspicious assets and corruption activities through an information-sharing system among the judiciary, police and banks.

26. The Administrative Permission Law defines the legal basis, the agencies, and the procedures for granting "administrative permission", aimed at ensuring a more uniform application of administrative permissions and thereby improving their transparency.[28] The Law stipulates that: provisions on administrative permission must be promulgated before its entry into force. Also, all administrative permission outcomes, except for those related to state or business secrets or individual privacy, must be published, and the public has the right to consult decisions by administrative departments on whether to grant permission and the "supervision records" of the individuals that have been granted permission. Administrative departments must make public all matters related to the application and its permission, including the basis for granting permission, the requirements, the quantity, procedure, time limit, and the catalogue of related materials regarding the relevant permission, together with application forms.[29] According to the authorities, laws and regulations that have recently been adopted or modified with a view to further increasing transparency include the Law on Response to Emergency, the Anti-Monopoly Law, the Regulation on Report and Investigation of Cases Concerning Product Safety, and the Rule on Administrative Punishment of Price-related Violations.

27. All foreign trade-related laws, regulations, and rules are published in the *China Foreign Trade and Economic Gazette*, edited and published by MOFCOM. Enquiry points and enquiry websites are set up under the MOFCOM and the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ); China makes regular notifications to the WTO. Newly promulgated trade-related laws and regulations are compiled and published by the Legislative Affairs Office of the State Council, which also publishes the yearly collection of China's laws and regulations governing foreign-related matters.

28. According to the authorities, by the end of 2006, all 73 national government agencies, local governments of 31 provinces, autonomous regions and municipalities directly reporting to the State Council, 323 of the 330 prefecture-level cities, and 80% of all the county governments had established their websites. More than 280 of China's laws and administrative regulations provide measures to promote transparency; about 80 involve the publication of government information.

[27] Supreme People's Court online information. Viewed at: http://www.court.gov.cn/lawdata/explain/criminal/200707090002.htm (in Chinese) [11 February 2008].

[28] "Administrative permission" means approval given to citizens, legal persons, and other organizations for engaging in "special activities" by administrative departments, on the basis of, and upon examination according to law, of their applications. The Law stipulates that only the NPC and its Standing Committee, the State Council, the provincial people's congresses and their standing committees, and provincial level governments, have the right to grant administrative permission. The Law also attempts to clarify the procedure for granting administrative permission, including by specifying time limits within which all government departments must make decisions concerning administrative permission.

[29] In addition, the Legislation Law specifies that, when drafting legislation, apart from laws enacted or amended by the NPC, opinions from organizations and the public must be solicited, through, *inter alia*, seminars, appraisal meetings, and hearings. Draft legislation is also made public for comment when necessary, in official gazettes or newspapers.

29. Judging from the absence of published material from government sources on the economic evaluation of policies and measures, including tax and non-tax incentives, this form of transparency is not a major feature of China's institutional framework, to the detriment of public accountability, and thus governance.

(iv) Centre–subnational relations and local barriers to internal trade

30. Policy coherence between the central and local governments is partly assured through a system in which top local government officials are appointed by the Central Government. Nonetheless, it would appear that boundaries of regulatory responsibilities between the central and local governments are not clearly defined; for example, internal trade of some products, notably tobacco, seem to remain subject to restrictions by certain local governments.[30] In general, coordination between central and local governments is improving, but remains weak; for instance, it would appear that sometimes the Central Government designs policies that have implications at the local level without consulting local governments.[31] The authorities attach importance to coordination between the central and local governments and to the soliciting of local government opinions when formulating laws, regulations, and other policies. They consider that the Anti-Monopoly Law will reduce barriers to internal trade, such as local protectionism.[32]

(3) FORMULATION, ADMINISTRATION, AND IMPLEMENTATION OF TRADE POLICY

(i) Main trade laws

31. 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, countervailing and safeguard measures, and intellectual property rights (Table AII.1).

32. Various trade-related laws and regulations have been adopted or amended during the review period. Laws and regulations that entered into force in 2006 included: the Company Law; the Agricultural Product Quality Safety Law; Regulations on the Administration of Company Registration, Regulations on Customs Statistics, Regulations on the Administration of the Import and Export of Endangered Wild Fauna and Flora, Regulations on Export Products Responding to Anti-dumping Cases.

33. The Property Law, which entered into force on 1 October 2007, defined, for the first time in the current regime, the ownership of property, and stipulated the protection of property rights of right holders (private or public entities). The Law on Enterprise Bankruptcy, which aims to regulate bankruptcy procedures for enterprises, settle credit and debt, and protect the rights and interests of creditors and debtors, entered into force on 1 June 2007; the Law on Partnership Enterprises entered into force on the same day. Other regulations that entered into force in 2007 include the Regulation on the Administration of Commercial Franchises (1 May).

[30] WTO (2006), p. 41.

[31] OECD (2005).

[32] Article 33 of the Anti-Monopoly Law, *inter alia,* prohibits local authorities' obstruction of free circulation of products across regions, such as: discriminatory setting of fees, prices, and technical measures concerning products originating from other regions; adopting administrative licensing requirements specifically targeted at products originating from other regions; and establishing checkpoints or using other means to block the entry into the local markets of products originating in other regions, or to block the outflow of locally produced products.

34. The Anti-Monopoly Law was adopted by the Standing Committee of the NPC on 30 August 2007, and is to enter into force on 1 August 2008 (Chapter III(4)(iv)).

(ii) Agencies involved in trade policy implementation

35. Since its previous Trade Policy Review, the structure of China's central government has remained largely unchanged. The Ministry of Commerce (MOFCOM) has main responsibility for policy coordination and implementation in respect of all trade-related issues.[33] Other key agencies that have an influence on trade policy include: the National Development and Reform Commission (NDRC), which is in charge of overall national economic and social development policy; and the Ministries of Finance, Agriculture, Information Industries, Communications, and Land and Resources.[34]

36. Several industry associations also collect and share information, identify and deal with industry problems, discuss trade policy issues that affect their industries, and represent their sectors in relation to Government.[35]

(4) TRADE POLICY OBJECTIVES

37. China's overall trade policy objective has remained largely unchanged since its previous Trade Policy Review: 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.[36] China wishes to achieve this objective by further strengthening the multilateral trading system as embodied in the WTO, and has been participating in the DDA negotiations. The authorities stress China's commitment to the DDA and its intention to make every effort toward reaching agreement in the negotiations. China provides at least MFN treatment for all WTO Members except El Salvador and some territories of EC Member States. Data provided by the authorities indicate that in 2006, 99.99% of China's total imports were subject to applied MFN tariffs, or more favourable rates.

[33] MOFCOM is responsible for, *inter alia*: formulating laws, regulations, and policies related to domestic and international trade and foreign investment; harmonizing domestic legislation on trade and economic affairs and bringing China's economic and trade laws into conformity with multilateral and bilateral agreements; countering monopoly activities and ensuring orderly market development; developing and administering import and export regulations, including the allocation of import and export quotas and licences; and other WTO-related affairs. MOFCOM is also in charge of trade promotion and facilitation, through its Trade Development Bureau, the Investment Promotion Agency, the International Centre for Economic and Technical Exchanges, and the China Foreign Trade Centre.

[34] Other agencies that have influence on other trade policies include: the People’s Bank of China (the Central Bank); State Administration of Foreign Exchange (SAFE); State-owned Assets Supervision and Administration Commission; General Administration of Customs; State Administration of Taxation; State Administration for Industry and Commerce; General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ); China Standardization Administration; China National Certification and Accreditation Administration; State Intellectual Property Office; General Administration of Civil Aviation; State Food and Drug Administration; National Tourism Administration; Legislation Affairs Office of the State Council; and Banking Regulatory Commission, Insurance Regulatory Commission, Securities Regulatory Commission, and State Electricity Regulation Commission.

[35] These include: the China Coal Industry Association; China Iron and Steel Association; China National Textiles and Clothing Association; China Machine Industry Federation; China Petroleum and Chemical Industry Association; China Light Industry Federation; China Building Material Industry Association; China Nonferrous Metals Society.

[36] See Article 1 of the Foreign Trade Law. Viewed at: http://english.mofcom.gov.cn/aarticle/policyrelease/internationalpolicy/200703/20070304473373.html [11 February 2008].

38. At the same time, China has been intensifying its pursuit of bilateral/regional arrangements involving free-trade agreements (section (5)(ii) below). It is of the view that whereas the multilateral trading system is the main channel to promote trade liberalization, regional and bilateral trade arrangements serve as new platforms and complement the multilateral system; regional/bilateral trade arrangements interact with the multilateral trading system in a mutually beneficial way. The authorities consider that an FTA can provide an institutional guarantee to the development of bilateral/regional trade and economic relations and benefit businesses and consumers in the participating countries and economies, by helping expand trade, achieve market diversification, reduce consumer prices, and lower producer costs; and drive economic growth and create new job opportunities. It would appear that all countries and economies that have concluded bilateral/regional FTAs recognize China as a market economy.

39. China also supports the open regionalism approach of the Asia-Pacific Economic Cooperation (APEC) forum, and participates in various other regional trade fora, such as the Asia-Europe Meeting (ASEM), the ASEAN+3, and the East Asia Summit.

(5) TRADE AGREEMENTS AND ARRANGEMENTS

(i) WTO

(a) Participation in the WTO

40. China acceded to the WTO on 11 December 2001.[37] While China is not yet a signatory to the plurilateral Agreement on Government Procurement, it submitted its initial offer to join the GPA, together with its initial Appendix I offer of coverage, on 28 December 2007. It is an observer to the Agreement on Trade in Civil Aircraft. China has been participating in the WTO, including in the Doha Development Agenda (DDA), as a strong supporter of the multilateral trading system.

(b) Notification

41. Like all Members of the WTO, in the interest of transparency, China is required to make regular notifications to the WTO (Table AII.2).

(c) Disputes

42. Since 2006, China has been involved in one dispute as a complainant and nine disputes as a respondent (Table AII.3). In addition, China participated as a third party in 15 dispute cases.

(ii) Regional agreements

(a) Asia-Pacific Economic Cooperation (APEC)

43. In 2006, 73.6% of China's merchandise imports were from APEC members (up from 67.8% in 2004), and 66.6% of its merchandise exports were to APEC (70.2% in 2004). Other APEC

[37] Under China's Protocol of Accession, the WTO Agreement and the Protocol apply to the entire customs territory of China, including border trade regions, minority autonomous areas, Special Economic Zones, open coastal cities, economic and technical development zones, and other areas where preferential regimes for tariffs, taxes, and regulations are established. Article 18 of the Protocol sets up a Transitional Review Mechanism (TRM) for reviewing China's compliance with its WTO commitments. The TRM takes place annually for eight years following accession, with a final review in year ten or at an earlier date decided by the General Council.

members accounted for 60.6% of China's FDI in 2006 (69.8% in 2004). In keeping with its policy of supporting multilateral trade and investment liberalization, China supports APEC's open regionalism goals. Like other members, China submits an annual Individual Action Plan (IAP), which provides a roadmap of its intended actions in various policy areas with a view to realizing APEC's liberalization goals.[38] At the Fourteenth APEC Leaders' Meeting, in November 2006, leaders of APEC economies, *inter alia,* reaffirmed their support for the Doha Development Agenda as a top priority. At the Fifteenth meeting, in September 2007, leaders, *inter alia*, agreed that the Doha Round negotiations is at a critical juncture; they issued a statement setting out the urgent need for progress and pledged their commitment to work to deliver an "ambitious and balanced" result. China participates in the APEC Business Travel Card (ABTC) Scheme.

(b) ASEM (Asia-Europe Meeting)

44. At the sixth ASEM Summit held in Helsinki in September 2006, leaders, *inter alia,* commemorated the first ten years of the ASEM, and agreed to "commence the second decade" by focusing on key policy areas such as strengthening multilateralism and addressing issues including: globalization, competitiveness and structural change in the global economy, science and technology, and sustainable development.

(c) China and ASEAN (Association of Southeast Asian Nations)

45. China, Japan, and the Republic of Korea, hold regular meetings with ASEAN under the ASEAN+3 framework of cooperation. High level meetings are held annually. The eleventh ASEAN+3 summit and the third East Asia Summit meeting (involving parties to the ASEAN+3 as well as Australia, India and New Zealand) were held in November 2007 in Singapore.

ASEAN–China free-trade area (ACFTA)

46. Under the Framework Agreement on Comprehensive Economic Cooperation between China and ASEAN, which entered into force on 1 July 2003, both parties agreed to negotiate the establishment of an ASEAN–China Free Trade Area (ACFTA) within ten years, including by: progressively eliminating tariff and non-tariff barriers to substantially all trade in goods; progressively liberalizing trade in services; establishing an open and competitive investment regime to facilitate and promote investment among partners to the ACFTA; simplifying customs procedures; and developing mutual recognition arrangements.[39]

47. An "early harvest programme", to accelerate the establishment of the ACFTA, specified that tariffs on all products in HS Chapters 1-8 and a limited number of products outside these chapters would be eliminated over three years beginning 1 January 2004; a longer time-frame (no later than January 2010) was accorded to Cambodia, Lao PDR, Myanmar and Viet Nam. Some products including poultry, meat, tomatoes, and carrots from Lao PDR and the Philippines are excluded from the list of products in HS Chapters 1-8 for which tariffs would be eliminated.

48. An Agreement on Trade in Goods and an Agreement on the Dispute Settlement Mechanism of the Framework Agreement on Comprehensive Economic Cooperation between ASEAN and China

[38] The latest IAP of China was submitted in 2007 (APEC (2007)).

[39] The ACFTA, involving the original ASEAN 6 (Brunei, Indonesia, Malaysia, the Philippines, Singapore, and Thailand) is to be established by 2010; flexibility up to 2015 has been provided for Cambodia, Laos, Myanmar, and Viet Nam. ASEAN and China agreed to strengthen economic cooperation by building upon existing activities and developing new programmes in five priority sectors: agriculture; human resources development; information and communication technology; investment; and Mekong River basin development.

entered into force on 1 January 2005.[40] It was notified to the WTO under the Enabling Clause on 21 September 2005.[41] The authorities indicate that since the tariff reduction began, there has been a boom in imports and exports between China and ASEAN, and a narrowing trade imbalance.

49. The Agreement on Trade in Services of the China-ASEAN Free Trade Area was signed in January 2007 and entered into force on 1 July 2007.[42] China is also negotiating with ASEAN in the area of investment.

(d) The Asia-Pacific Trade Agreement (APTA)

50. China is party to the Asia-Pacific Trade Agreement (Bangkok Agreement until 1 November 2005), a preferential trading arrangement between developing countries in the Asia-Pacific region.[43] Under the agreement, in 2007, 1,652 tariff lines carry rates that are lower than the MFN rates; as a result, the overall average tariff applied to parties to the APTA is 9.1%, compared with an MFN rate of 9.7% (Chapter III(2)(iii)).

(e) Others

51. Academics from China, Japan, and the Republic of Korea have been conducting a feasibility study for a trilateral free-trade agreement covering trade and investment, information and communication technology industries, environmental protection, and financial cooperation; government officials participate in the study as observers.

52. In 2005, China initiated a study on the "10+3" (i.e. ASEAN countries, China, Japan, and Korea) East Asia Free Trade Area (EAFTA), and in 2007 a phase II study was initiated by Korea.

(iii) Bilateral agreements

53. China has concluded bilateral free-trade agreements (FTAs) with a few trading partners, all of whom recognize China as market economy; it has been negotiating (or seeking negotiations on) free-trade agreements with some other trading partners.

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[40] The Agreement on Trade in Goods stipulates that tariff reductions and eliminations shall apply to all tariff lines not covered by the Early Harvest Programme under Article 6 of the Framework Agreement; these tariff lines are grouped under two categories, the normal track and the sensitive track. The agreement explicitly adopts GATT 1994 provisions on national treatment in respect of internal taxation and regulation, transparency, balance-of-payments safeguard measures; and commits parties to abide by the provisions of WTO disciplines on, *inter alia*, non-tariff measures, technical barriers to trade, sanitary and phytosanitary measures, subsidies and countervailing measures, anti-dumping measures, and intellectual property rights.

[41] WTO document WT/COMTD/51/Add.1, 27 September 2005.

[42] This agreement has not been notified to the WTO; the authorities state that the parties to this agreement are communicating with their respective permanent missions in Geneva with a view to notifying it as soon as possible.

[43] The other members are Bangladesh, India, the Lao People's Democratic Republic, the Republic of Korea, and Sri Lanka (WTO documents WT/COMTD/N/22, 27 July 2007 and WT/COMTD/62, 27 July 2007).

(a) CEPAs: China–Hong Kong, China; and China–Macao, China

54. Under the Closer Economic Partnership Arrangements (CEPAs) with the Special Administrative Regions (SARs) of Hong Kong and Macao, from 1 January 2004, China began to implement a staged elimination of tariffs on imports originating in these two SARs.[44]

55. Since 1 January 2006, tariffs on merchandise imports originating in the SARs of Hong Kong and Macao have been fully eliminated. Since 1 January 2005, China has gradually liberalized markets in various services sectors; on 1 January 2006, it further relaxed restrictions in legal services, accounting, construction, audio-visual services, distribution, banking, securities, tourism and transportation; it also relaxed equity restrictions and thresholds on registered capital, qualification requirements, geographical limitation, limitations on business scope and the movement of natural persons applicable to individual business owners that are permanent residents (with Chinese citizenship) of the Hong Kong and Macao SARs.

56. The Third Supplemental Agreements to the Mainland and Hong Kong/Macao Closer Economic Partnership Arrangements (CEPA III) was signed in June 2006 and entered into force on 1 January 2007. China further lowered the market access threshold in certain service sectors, including legal, accounting, information technology, conventions and exhibitions, audiovisual, distribution, tourism, and transport and certain individually owned stores. Protection of intellectual property rights, and conventions and exhibitions were added to the scope of trade facilitation under the two CEPAs.

57. The Fourth Supplemental Agreements were signed during June and July 2007. On 1 January 2008, the Mainland further relaxed the market access conditions on 28 areas, namely, legal, medical, computer and related services, real estate, market research, services related to management consulting, public utility, job intermediary, building-cleaning, photographic, printing, translation and interpretation, conventions and exhibitions, telecommunications, audiovisual, distribution, environmental, insurance, banking, securities, social services, tourism, cultural, sporting, maritime transport, air transport, road transport, and individually owned stores.

(b) China–Chile FTA

58. On 18 November 2005, China and Chile signed an FTA, which entered into force on 1 October 2006.[45] Information provided by the Chinese authorities indicate that under the FTA, 74% of Chile's tariffs were eliminated immediately, while 63% of China's tariffs were eliminated in two steps from 1 October 2006 to 1 January 2007. Most other tariffs are to be eliminated within five or ten years with 97% of both countries' tariffs eliminated by 1 January 2015. The agreement includes provisions on trade remedies, SPS and TBT measures, and disputes settlement.[46] Negotiations on trade in services and investment were launched in January 2007. China's overall average tariff on imports from Chile was 3.5% in 2007, the lowest overall average among China's FTA partners.

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[44] Both CEPAs have provisions regarding non-tariff measures, non-application of tariff-rate quotas, anti-dumping and countervailing measures, safeguard measures, trade in services, transparency, standards and conformity assessments, and information exchange.

[45] The FTA includes chapters on, *inter alia*, national treatment and market access for goods, rules of origin, trade remedies, SPS, TBT, transparency, and dispute settlement. In addition to tariff concessions on trade in goods, the FTA intends to strengthen cooperation in: economic matters, research, science and technology, education, labour, social security and environment, small and medium-sized enterprises, culture, intellectual property rights, investment promotion, mining, and industry.

[46] WTO document WT/REG230/N/1, 28 June 2007.

(c) China–Pakistan FTA

59. In November 2003, China signed a preferential trade agreement with Pakistan, its first PTA. Under an Early Harvest Agreement, which entered into force on 1 January 2006, bilateral tariffs on certain products were to be eliminated gradually by 1 January 2008. The China-Pakistan Free Trade Agreement was signed on 24 November 2006 and entered into force on 1 July 2007. The Agreement covers trade in goods and investments.[47] As a result, China's overall average tariff on imports from Pakistan was 7.9% in 2007, compared with the overall MFN average of 9.7% (Chapter III(2)(iii)).

(d) China–Australia

60. China and Australia signed a Trade and Economic Framework Agreement on 24 October 2003. Following the completion of a joint study, the two countries agreed to commence FTA negotiations in 18 April 2005. A sixth round of talks was concluded in June 2006.

(e) China–New Zealand

61. China and New Zealand signed a similar Trade and Economic Cooperation Framework Agreement on 28 May 2004. Following a joint feasibility study, FTA negotiations started in December 2004; a fifteenth round of negotiation was held in December 2007.

(f) China–Gulf Cooperation Council (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the UAE)

62. In July 2004, China and the Gulf Cooperation Council announced that they had signed a Framework Agreement on Economic, Trade, Investment and Technology Cooperation. They also established a joint committee for cooperation to implement the agreement and to create a consultation mechanism, and agreed to launch FTA negotiations. Four rounds of negotiations had been held by December 2007.

(g) China–Iceland

63. On 4 December 2006, China and Iceland agreed to start negotiating an FTA; in April 2007, the first round of negotiations between the two countries was held.

(h) China–Southern African Customs Union (SACU)

64. In June 2004, China and SACU issued a joint declaration, in which SACU granted China market economy status. At the same time, FTA negotiations were launched. To date, it would appear that no negotiations have taken place.

(i) Other potential bilateral agreements

65. China and India agreed to form a Joint Study Group in June 2003, to explore the potential for expanded bilateral trade and cooperation; the Group met in March 2004. China and India also concluded bilateral tariff-reduction negotiations in February 2003, and signed the Bilateral Agreement on Adopting the Bangkok Agreement (now the Asia Pacific Trade Agreement). A feasibility study on a China–India FTA was started in April 2005.

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[47] WTO document WT/REG237/N/1, 21 January 2008.

66. After the completion of a China-Korea FTA study, the Official Business and Academic Joint Study was launched in November 2006. Three rounds of meetings were held in 2007 covering issues including trade in goods, trade in services and investment. The fourth meeting, in February 2008, covered economic cooperation and other remaining issues.

67. The China-Peru FTA feasibility study, launched in March 2007, ended in September 2007 after two rounds of meetings. The first round of FTA negotiations was held in January 2008.

(iv) Unilateral preferences

68. As of March 2008, unilateral preferential tariffs on certain products were offered to 39 least developed countries (Chapter III(2)(iii)).

(6) FOREIGN INVESTMENT REGIME

(i) Recent developments in FDI policy

69. In 2006, China was the third largest recipient of FDI in the world, after the United States and the United Kingdom.[48] China has continued to provide a business environment conducive to FDI, which, often embodying new technology, has consequently played a key role in the country's economic development since its previous Review. Foreign investment has been encouraged mainly in manufacturing with particular emphasis on high value-added production.

70. Until end 2007, China provided better than national treatment in its taxation of foreign-invested enterprises (FIEs), which were subject to enterprise income tax rate of 15% or 24% (depending on their location) compared with the standard rate of 33%. Since 1 January 2008, however, a statutory rate of 25% has been set in accordance with the Enterprise Income Tax Law, which was approved on 16 March 2007. The rate is applicable to all enterprises, except for certain "grandfathering" of incentives during a transitional period of five years from 1 January 2008; during this period, preferential tax rates for foreign investors will continue in certain industries and projects (Chapter III(4)(i)).

71. Several other regulations related to foreign direct investment in China were adopted during the period under Review.

- The "Regulations for Merger with and Acquisition of Domestic Enterprises by Foreign Investors", promulgated by MOFCOM and five departments, entered into force on 8 September 2006. The Regulations, which supersede the Interim Regulations, stipulate, *inter alia*: criteria for granting FIE status as a result of mergers and acquisitions (Article 9); anti-monopoly provisions (Article 12); and conditions in regard to payment, such as share swaps (Article 29).

- MOFCOM's "Interim Measures concerning Complaints from Foreign-invested Enterprises" entered into force on 1 October 2006. They, *inter alia*, set up a procedure for FIEs and foreign investors who consider their rights have been impaired by the authorities to file a formal complaint, and provide for the establishment of the Complaint Coordination Office for Foreign-Invested Enterprises and the National Complaint Centre for Foreign-invested Enterprises.

[48] In 2006, inflows of FDI into China were US$69.4 billion, those into the United States and the United Kingdom were US$175.4 billion and US$139.5 billion, respectively (UNCTAD (2007)).

– On 27 May 2007, MOFCOM and the State Administration of Foreign Exchange (SAFE) issued the Circular on Further Strengthening and Regulating the Examination, Approvals and Supervision of Foreign Direct Investment in Real Estate (Circular 50), which is aimed at regulating FDI in the booming real estate sector.[49] The Circular, *inter alia*, requires commercial presence when foreign investors engage in domestic real estate development or operations; it also requires that the local commerce authorities strictly implement MOFCOM's opinions and circulars concerning market access and management of foreign investment in the real estate market.[50]

72. China also encourages outward FDI, largely to upgrade technical skills and to secure supplies of key raw materials, such as petroleum and iron ore. In accordance with the Regulations on Items Subject to Approval of Overseas Investment for Establishing Enterprises (MOFCOM Decree No. 16, 2004) and the Regulations on Examination and Approval for Mainland Enterprises Establishing Enterprises in the Hong Kong and Macao Special Administrative Regions, local commerce authorities of various provinces, autonomous regions, and municipalities directly under the Central Government, and cities with independent budgetary status, are delegated the authority of examination and approval for overseas investment. In July 2006, China eliminated restrictions on the purchase of foreign currency for the purpose of outward FDI, in accordance with the Circular on the Adjustment of Foreign Exchange Management Policy concerning Overseas Investment, issued by the SAFE. In October 2007, it established a new sovereign wealth fund, China Investment Corporation, which aims to invest a part of the country's large foreign reserves; the fund's operational assets appear to be about US$200 billion.

(ii) Legislative framework and procedures

73. Laws and regulations specifically related to FDI include: the Law on Chinese-Foreign Equity Joint-Ventures, Law on Chinese-Foreign Contractual Joint Ventures, Law on Foreign-Capital Enterprises, and their implementing regulations.[51] Under the three laws, FIEs include equity joint ventures (with foreign investment no less than 25% of registered capital), contractual joint ventures, and wholly foreign-owned enterprises (WFOEs). FIEs often involve state-owned enterprises (SOEs).

74. The Provisions on Guiding Foreign Investment Direction stipulate the basic regulations concerning FDI in China; they classify foreign investment projects into four categories: encouraged, permitted, restricted, and prohibited.[52] The current Catalogue for the Guidance of Foreign Investment Industries, which entered into force on 1 December 2007, lists industries that are encouraged, restricted, and prohibited; projects that do not fall into these three groups are "permitted". The

[49] MOFCOM online information. Viewed at: http://english.mofcom.gov.cn/aarticle/policyrelease/gazettee/200708/20070804974142.html [11 February 2008].

[50] Opinions No. 171 (2006), issued by MOFCOM and five other departments, and MOFCOM Circular No. 192 (2006).

[51] Other laws and regulations related to FDI include: Interim Provisions on Mergers and Acquisitions of Domestic Enterprises by Foreign Investors; Provisions on Foreign Invested Investment Companies; Interim Provisions on Foreign Invested Joint Stock Limited Companies; Company Law; Contract Law; Insurance Law; Arbitration Law; Labour Law; Provisional Regulations on Value-Added Tax; Provisional Regulations on Consumption Tax; Provisional Regulations on Business Tax; and Law on Protection of Investment by Compatriots from Taiwan (Invest in China online information. Viewed at: http://www.fdi.gov.cn/pub/FDI_EN/Laws/GeneralLawsandRegulations/BasicLaws/t20060620_50886.jsp [11 February 2008]).

[52] Provisions on Guiding Foreign Investment Direction. Viewed at http://english.gov.cn/laws/ 2005-07/25/content_16873.htm [11 February 2008].

current Catalogue of Advantaged Industries for Foreign Investment in Central-Western China entered into force on 1 September 2004.

75. In general, it appears that projects in the encouraged category are those that use improved technology and are less polluting[53], while "restricted", and "prohibited" projects are those that use outdated technologies, over-exploit scarce natural resources, and tend to harm the environment. Foreign equity limits tend to vary by industry and are not necessarily related to the category.

76. Foreign investors in the encouraged category are permitted to import capital equipment duty free. In addition, they may enlarge their scope of business, with approval, if they are engaged in the construction and operation of infrastructure facilities related to energy, transportation, and utilities in urban areas, which need a large amount of investment and involve a long payoff period. Foreign investment in the restricted category may be regarded as permitted, if export sales are over 70% of total sales of the product.

(iii) Examination and approval procedure

77. FDI in "important or restricted" projects requires verification by the authorities, as stipulated by the Decision on Reforming the Investment System and the Catalogue of Investment Projects Requiring Government Verification (issued by the NDRC), which includes non-government-funded, important or restricted fixed asset investment projects, in several industries or sectors.[54] All other investment projects, irrespective of the amount of investment, are required only to register with the relevant authorities, such as the local development and reform commissions (DRCs).

78. The Interim Measures for the Administration of Examining and Verifying Foreign Investment Projects based on the Decision and on the Administrative Permission Law is the main regulation stipulating examination and approval procedures for FDI in China; the Interim Measures entered into force on 9 October 2004.[55] To establish an FIE applications must be submitted for examination and verification to the NDRC, or to other government agencies such as the local DRCs. Projects valued at more than US$100 million for permitted and encouraged industries (US$50 million for restricted industries) must be verified by the NDRC at the national level; applications for permitted and encouraged industries valued at over US$500 million (US$100 million for restricted industries), after being examined by the NDRC, are submitted for verification to the State Council. The NDRC must

[53] 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.

[54] 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.

[55] 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.

complete its examination and verification within 20 working days after accepting the application; this may be extended by ten working days, if it is difficult to reach a decision (the project applicant is informed of the delay). In addition, all FIEs (excluding in the financial sector) seeking to establish in China must submit an application simultaneously to MOFCOM, which grants an FIE Approval Certificate to approved projects; the FIE is then permitted to complete all the other procedures necessary, such as registration of the enterprise, to commence operations.

79. Local DRCs can verify FDI projects with a total value below US$100 million in the encouraged or permitted categories, as well as projects in the restricted category with investment below US$50 million. Under the Interim Measures, the power to verify restricted industries cannot be delegated to a department at a lower level than a provincial DRC. For an investment project 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.

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

(iv) FDI incentives

(a) Tax incentives

81. Taxes applicable to FIEs and foreign individuals include: enterprise income tax, individual income tax, turnover taxes (including value-added, consumption and business tax), tariffs, land appreciation tax, resource tax, urban real estate tax, stamp tax, deed tax, farmland occupation tax, vehicle and vessel tax, vehicle purchase tax, and vessel tonnage tax (Chapter III(4)(i)). Differences in the tax treatment between domestic enterprises and FIEs may include: FIEs do not need to pay city maintenance and construction tax[56]; instead, they pay urban real estate tax, while domestic enterprises pay house property tax. Until the end of 2007, the standard enterprise income tax rate was 33%, while a rate of 15% applied to FIEs located in the special economic zones (SEZs), or involved in manufacturing in the economic and technological development zones (ETDZs); a rate of 24% applied to FIEs involved in manufacturing and located in the costal economic open zones, or the old urban districts of cities where the SEZs or ETDZs were located. Subsidiaries of FIEs in different locations could be taxed differently.

82. The entry into force of the Enterprise Income Tax Law on 1 January 2008 altered the structure of tax incentives accorded to FIEs. A uniform enterprise income tax rate of 25% is now applied to all enterprises, including FIEs, except for enterprises subject to "grandfathering".[57]

83. Specific terms and conditions on tax incentives to remain after the entry into force of the Enterprise Income Tax Law are specified in the Implementation Rules to the Enterprise Income Tax Law. Tax incentives are accorded to enterprises engaging in high-tech and new technology activities[58], and those located in the western areas or autonomous regions.[59] Certain small enterprises

[56] FIEs had not been subject to the farmland occupation tax until end 2007.

[57] FIEs established on and after 16 March 2007 (the date of promulgation of the Enterprise Income Tax Law) are subject to an income tax rate of 25% from the first year of establishment. There will be a five-year period (2008-2012) of "grandfathering" to the implementation of the Enterprise Income Tax Law (Chapter III(4)(i)).

[58] They will continue to be subject to a preferential tax rate of 15%.

[59] Before the entry into force of the Enterprise Income Tax Law, FIEs operating in encouraged industries in Central-Western China were accorded a two-year tax holiday during the first two years after making profits and a 50% income tax reduction during the following six years.

are subject to a preferential rate of 20%. Domestic and foreign-invested firms are treated equally under the Law.

(b) Promotion and facilitation

84. MOFCOM promotes foreign investment in China through its Investment Promotion Agency, and the International Investment Promotion Centre of China. Many provinces provide one-stop services to foreign investors, and each province has set up an investment promotion centre. China also promotes investment through, *inter alia*, the International Fair for Investment and Trade, Hi-Tech Fair, and Export Commodities Fair.

(v) Bilateral investment and tax agreements

85. China had signed 112 bilateral investment protection agreements by end-of-May 2007[60]; and 93 agreements or arrangements on avoidance of double taxation by end-July 2007. The agreements on avoidance of double taxation incorporate "tax sparing" provisions, which stipulate that in respect of certain "taxable income", tax is to be levied only by one party to the agreement; they have no MFN provisions. In addition, China's CEPAs with the SARs of Hong Kong and Macao provide certain privileges to investors from these SARs (section (iii) above).[61]

[60] The bilateral investment protection agreements provide protection against expropriation without adequate compensation and include provisions on dispute settlement.

[61] Other international agreements signed by China include: the United Nations Convention on Contracts for the International Sale of Goods (Vienna Convention), in 1991; and the Hague Convention on the Service of Documents Abroad, in 1991.

III. TRADE POLICIES AND PRACTICES BY MEASURE

(1) INTRODUCTION

1. Since its previous Trade Policy Review in 2006, China has, by and large, continued to liberalize gradually its trade and trade-related policies. In particular, it has eliminated tariff-rate quotas on some items, and reduced the number of lines subject to automatic import licensing requirements. Nonetheless, trade and trade-related measures, both at the border and internally, are still used as instruments of industrial policy.

2. The tariff remains one of China's main trade policy instruments. The overall average applied MFN tariff was 9.7% in 2007 (the same as in 2005). The average applied MFN tariff rates for agricultural and non-agricultural products were 15.3% and 8.8%, respectively (also the same as in 2005). Preferential tariff rates are applied under bilateral free-trade agreements to which China is a party; the tariff averages ranged from 3.5% to 9.1%. In 2007, China applied preferential tariffs unilaterally to 37 LDCs; the tariff averages ranged from 9.0% to 9.5%, depending on the origin of goods. Tariff-rate quotas on soybean oil, palm oil, and rapeseed oil (ten items) were eliminated in 2006. Tariff revenue accounts for a minor share of total tax revenue (3.3% in 2006).

3. Whereas the average applied MFN tariff rate has remained largely unchanged, non-tariff barriers have been reduced; for example, the number of lines subject to automatic import licensing requirements has declined. China's institutional and procedural framework on contingency measures has remained largely unchanged. Between 1 January 2005 and 30 June 2007, China initiated 39 anti-dumping investigations. China has not taken any countervailing measures or safeguard measures since its previous Review.

4. China has adopted measures to increase the alignement of its national standards with international norms. It has notified to the WTO a number of sanitary and phytosanitary (SPS) measures and technical barriers to trade (TBT). With a large number of laws governing SPS measures, the SPS regime remains complex. Under the Law on Government Procurement, goods may be purchased from foreigners only under exceptional circumstances; however, in practice, procurement from foreign suppliers appears to occur routinely for some products. The law does not cover purchasing by state-owned enterprises (SOEs). China is an observer to the WTO Agreement on Government Procurement (GPA), and submitted its application for accession to the GPA in December 2007.

5. China's already complex export regime has become considerably more restrictive. A variety of measures, including export taxes (notably "interim export duties"), reduced rebates of VAT on exports, and export prohibitions, licensing, and quotas, are used to restrain, if not prohibit, exports of a considerable and growing number of products. Although some of these export restraints are implemented to meet China's international obligations, many are intended to, *inter alia,* reduce exports of products using large amounts of natural resources and energy, or to reduce China's large trade surplus in an attempt to reduce trade friction (related to China's large and growing current account surplus). For instance, the number of tariff lines subject to interim export duties almost doubled in the last two years, VAT rebate rates on exports of some 2,800 lines (HS 8-digit) were eliminated or lowered in July 2007, and the number of lines subject to export quotas and licensing requirements has increased.

6. China has continued to use policy tools to channel resources into certain activities, with a view, *inter alia*, to promoting investment in high technology, encouraging innovation, and protecting the environment (by, for example, reducing energy consumption). These tools include tax incentives,

non-tax subsidies, price controls, and various forms of "guidance" including sector-specific "industrial policies". In April 2006, China notified the Central Government's subsidies programmes to the WTO; these included income tax reductions and exemptions granted to enterprises located in selected areas, engaging in certain activities, or involving foreign ownership (foreign-invested enterprises (FIEs)). With the entry into force of the Enterprise Income Tax Law in 2008, tax incentives granted to FIEs will be gradually phased out, and after a five-year transition period, there are to be no difference in tax incentives accorded to domestic enterprises and FIEs. Tax incentives given to FIEs based on export performance were removed at the end of 2007.

7. Reform of the public sector, including SOEs, remains a major challenge. Recent progress in the reform of SOEs by, *inter alia*, their reorganization, corporatization, and privatization, has improved their performance; by reducing state involvement or freeing-up resources once owned by the State, the reform has also helped the development of the private (non-public) sector. Nonetheless, SOEs continue to play a dominant role in the economy (accounting for some 35% of GDP), often enjoying monopoly positions in certain sectors. By contrast, the private sector continues to face constraints, including in access to finance. A main challenge to SOEs is to raise their productivity through further reforms; private firms operating in China (especially FIEs) are, by and large, more productive than SOEs.

8. Corporate governance has been improved, not only because of the development of the private sector and the corporatization of SOEs, but also because of the entry into force of the Law on Enterprise Bankruptcy, which applies to all enterprises (including SOEs) in China. In addition, China's accounting standards have been revised to further align them with international practices. At the same time, to promote competition in the economy, the Anti-Monopoly Law was promulgated and is to enter into force on 1 August 2008. All sectors of the economy, apart from certain activities related to agriculture, are covered by this law. However, the implementing details of the law have not yet been formulated.

9. One of the major targets of the Eleventh Five-Year Plan is to ensure adequate returns to investment in innovation by protecting intellectual property rights. Thus, China is revising several pieces of legislation, including the Patent Law and the Trademark Law, to achieve an appropriate balance between the protection of intellectual property rights (IPR) and the promotion of competition. The enforcement of IPR protection has been strengthened, although questions remain about the sufficiency of fines and criminal penalties to deter IPR violations.

(2) MEASURES DIRECTLY AFFECTING IMPORTS

(i) Procedures

(a) Customs procedures

10. Since 2005, China's customs procedures have remained largely unchanged. Importers (and exporters) must register with MOFCOM or its authorized bodies before filing customs declarations.[1] Import declarations can be made either in person, or by an enterprise authorized to do so, in paper or

[1] Under the Rules for the Registration of Foreign Trade Operators, issued by MOFCOM and effective from 1 July 2004, the registration documents include: a registration form; a copy of the business certificate and a copy of the organization code certificate of the enterprise; the certificate of approval of the foreign-invested enterprises, if the trader is an enterprise with foreign investment; a self-employed entrepreneur must submit a notarized property certificate, while a foreign enterprise (registered outside China) must submit a notarized certificate of creditworthiness.

electronic form.[2] Declarations must be made to Customs at the port of entry within 14 days of the goods' arrival[3], and accompanied by: contract of import (or export), invoices, bill of lading, authorization agreement if declared by agents, import (or export) approval documents, and processing trade handbook (paper or electronic form). At the time of customs declaration, importers must meet the requirements of Customs and the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ).

11. Since October 2005, the General Administration of Customs has been implementing pilot projects to reform China's regional customs transit system, under which goods authorized by Customs can be transported within China as bonded goods.[4] In July 2006, Customs decided to expand the pilot projects to some other regions, while local customs authorities in the rest of China can apply to be included in the pilot project. Prior to the reform, import and export enterprises had to declare goods and undergo clearance at both the port of entry and inland customs. After the reform, enterprises are required to declare only once at the place where they are registered. Also, the authorities indicate that review of customs declaration documents for imported or exported products is to be conducted electronically after the customs transit reform. According to the authorities, the release of goods can be completed within one working day under the new customs transit system (previously two working days).

12. Under the Administrative Reconsideration Law, administrative decisions made by Customs may be appealed, either to Customs, or to a People's Court.[5] 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).[6] According to data provided by the authorities, about 95% of requests for appeal against decisions were processed in 2005, and about 55% of the appeals processed were rejected; data for 2006 was not made available to the Secretariat.

(b) Preshipment inspection

13. China introduced a preshipment inspection (PSI) requirement by the revision of the Implementing Regulation of the Law on Import and Export Commodity Inspection; the revised version entered into force on 1 December 2005.[7] China has not yet notified this requirement to the WTO. Under the regulation, preshipment inspection is required for imports of: certain commodities related to national security, with high value or complicated technology; equipment exceeding certain height, length or volume; solid waste used as raw materials; and certain used electronic products that are deemed to affect public health and environment. The authorities state that the PSI requirement was introduced to, *inter alia*, protect public health, improve the phytosanitary situation, protect the

[2] Although almost all declarations can be submitted in electronic form, a paper copy must also be submitted.

[3] Customs Law. Viewed at: http://www.customs.gov.cn/YWStaticPage/433/69eabfa8.htm (in Chinese) [11 February 2008].

[4] Customs transit reform started at 11 Customs in the Yangtze River delta, the Pearl River delta, and the Bohai sea region.

[5] In accordance with the Administrative Reconsideration Law, individuals, legal persons, or other organizations may choose to apply for administrative review to the customs authority of a higher level, or appeal to a People's Court. However, appeals of decisions related to tariffs and other taxes must be made to Customs first, then to the People's Court in the case of discontent.

[6] Provisional Regulations on Processing Customs Appeals. Viewed at: http://www.customs.gov.cn/YWStaticPage/433/5a80ac4e.htm (in Chinese) [11 February 2008].

[7] Implementing Regulation of the Law on Import and Export Commodity Inspection (State Council Decree No. 447, 2005). Viewed at: http://www.chinacourt.org/flwk/show1.php? file_id=104565 (in Chinese) [11 February 2008].

environment, and prevent counterfeit goods from entering China.[8] China has designated 23 foreign institutions to conduct PSI and to issue certificates. It was not clear to the Secretariat whether China sent people or institutions abroad to conduct PSI inspections. PSI certificates are not used for customs valuation.

(ii) Customs valuation and rules of origin

(a) Customs valuation

14. Based on the Rules Regarding Determination on Customs Value of Imported and Exported Goods[9], customs value is determined on the basis of transaction value, i.e. the c.i.f. price.[10] Where it is not possible to determine the transaction value, the customs value is based on: the transaction value of identical or similar goods imported into the customs territory of China at or about the same time as the goods being valued; the sales value of identical or similar goods imported into the customs territory of China, allowing the deduction of relevant expenses incurred in China; the sum of the production cost of the goods, the profit of identical or similar goods sold in China, and the freight, insurance, and relevant expenses incurred before the goods are transported to and unloaded in China.

(b) Rules of origin

15. China applies non-preferential rules of origin in accordance with the Regulations on Rules of Origin of Import and Export Commodities (State Council Decree No. 416 in 2004).[11] 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. "Substantial transformation" is defined either as a change in the tariff heading of the good according to China's tariff classification, or if the value added is no less than 30% of the total value of the product.[12]

16. Preferential rules of origin are applied under the Asia-Pacific Trade Agreement (APTA) and preferential/free-trade agreements China has concluded with trading partners. The China-Pakistan rules of origin came into effect on 1 January 2006; and the China-Chile rules of origin entered into force on 1 October 2006 (Table III.1).

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[8] The authorities consider that the PSI requirement can function as a precautionary measure against counterfeit.

[9] General Administration of Customs, Decree No. 148, 2006. The revised version of the rules came into force on 1 May 2006. The revision was mainly intended to achieve further clarification and to better incorporate relevant international agreements such as the Agreement on Implementation of Article VII of GATT 1994.

[10] If freight, insurance or other charges on imports cannot be determined by the importer, they are calculated by Customs. Freight charges are calculated on "the basis of the freight rate or amount published by the transportation industry at the time of importation"; insurance costs are calculated as 0.3% of the sum of cost and freight, for goods imported by land, air or sea, and as 1% of the price for goods imported by rail or road (WTO document G/VAL/N/1/CHN/1, 5 July 2002).

[11] Regulations on Rules of Origin of Import and Export Commodities. Viewed at: http://www.chinacourt.org/flwk/show1.php?file_id=96376 (in Chinese) [11 February 2008].

[12] Regulations on the Specification of Substantial Change in the Non-Preferential Rules of Origin. Viewed at: http://www.chinacourt.org/flwk/show1.php?file_id=98464 (in Chinese) [11 February 2008].

Table III.1
China's preferential rules of origin, 2007

Agreement/Party	Rules
APTA	Products must be wholly produced or obtained in the country, or the value of non-originating parts or components used in the manufacture must be less than 50% of the f.o.b. value of the product. The country of origin is defined as the country where the last manufacturing operation takes place. In addition, goods must enter China directly.
ASEAN	Products must be wholly produced or obtained in ASEAN countries; or the content of products originating in any one of the ASEAN countries should be no less than 40% of total content; or 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. The country of origin is defined as the country where the last manufacturing operation takes place. In addition, goods must enter China directly.
Least developed countries	Products must be wholly produced in the country of origin or the value of non-originating parts used in the manufacture of a good may be up to 60% of the f.o.b. value of the product. Goods under the APTA (originating in Bangladesh, and the Lao PDR) must enter China through "direct transportation".
Hong Kong, China	Products must be wholly produced in Hong Kong, China or have Hong Kong, China content of at least 30% of value added; in addition, the final stage of processing must be carried out in Hong Kong, China. Goods must enter China directly.
Macao, China	Products must be wholly produced in Macao, China or have Macao, China content of at least 30% of value added or have resulted in a change in the HS 4-digit tariff heading; in addition, the final stage of processing must be carried out in Macao, China.
Chile	Products must be wholly produced or obtained in Chile, or the value of non-originating parts or components used in the manufacture must be less than 60% of the f.o.b. value of the product. The country of origin is defined as the country where the last manufacturing operation takes place.
Pakistan	Products must be wholly produced or obtained in Pakistan, or the value of non-originating parts or components used in the manufacture must be less than 60% of the f.o.b. value of the product. The country of origin is defined as the country where the last manufacturing operation takes place.

Source: Information provided by the Chinese authorities.

(iii) Tariffs

17. The basic legal framework for China's tariff is provided by the Customs Law and related regulations. China's tariff schedules are part of the Regulations on the Import and Export Tariffs; since 2007, China has adopted the Harmonized System (HS) 2007 (an updated version of the HS 2002). The tariff is set by the Tariff Commission, which is an inter-ministerial body composed of, *inter alia*, officials from the Ministry of Finance, Customs, MOFCOM, the NDRC, and the State Council General Office.[13] In 2006, tariff revenue accounted for 3.3% of total tax revenue. A study found that in 2001 China's import tariffs were equivalent to an export tax of 12%[14]; however, it is likely that the decline in average tariff protection since then has reduced this export tax burden.

18. China's tariff rates on imports comprise bound MFN tariff rates, applied MFN tariff rates (either "'standard' applied MFN tariff rates", or "interim applied MFN duty rates"), tariff-quota rates, "agreement" tariff rates[15], "special preferential" tariff rates, and general tariff rates.[16] Where goods

[13] Other members of the Tariff Commission are: the State Administration of Taxation, the Legislative Affairs Office of the State Council, the Commission of Science, Technology and Industry for National Defence, the Ministry of Land and Resources, the Ministry of Information Industry, and the Ministry of Agriculture. The Commission's functions include: reviewing and adjusting tariff headings and import and export duty rates; determining products subject to interim tariffs and their rates; determining tariff quotas and associated rates; and determining the imposition of: anti-dumping, countervailing, safeguard duties, retaliatory duties, and other tariff measures. "Retaliatory" tariffs are applied when China's trading partners impose a discriminatory tariff or measure against goods originating in China; according to the authorities, since its entry into the WTO, no retaliatory duty has been applied, but China reserves its rights to do so in the future.

[14] Tokarick (2006).

[15] "Agreement tariffs", as classified in China's tariff schedule, include various preferential tariffs under bilateral/regional trading agreements or arrangements.

from countries or customs territories appear in more than one of these categories, the more favourable rate applies. Inward article duties apply (section (2)(iii)(d)) for articles exceeding a certain amount and entering the Customs Territory of China for personal use.

(a) MFN tariff rates

Bound tariff rates

19. All tariff lines are bound at *ad valorem* rates, and applied MFN tariff rates have tended to be close to the bound rates, thereby imparting a high degree of predictability to China's MFN tariff. In 2007, the average bound rate was 9.9%; 15.3% for agricultural products (WTO definition) and 9.0% for non-agricultural products (Table III.2 and Chart III.1). Bound rates vary from zero to 65% for agricultural products, and from zero to 50% for non-agricultural products.

Applied tariff rates

20. China's 2007 applied MFN tariff consisted of 7,645 lines at the HS 8-digit level (HS 2007), compared with 7,550 lines (HS 2002) in 2005.[17] Some 99.3% of the tariff lines were *ad valorem*. Of the 52 lines subject to non-*ad valorem* rates, 44 were at specific rates, 3 at alternate rates, and 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.[18] The authorities have provided the *ad valorem* equivalents (AVEs) for 40 lines out of 44 lines subject to specific rates; the simple average AVE of the 40 lines is 14.2%.

21. While the "standard" applied MFN tariffs must be adopted on an annual basis, "interim" applied MFN tariffs (interim tariffs) may be introduced or amended by the Tariff Commission whenever it considers it necessary. Interim tariffs are usually applied for a specific period, such as one year.[19] As at 1 January 2007, 149 tariff lines were fully subject to interim tariffs.[20] Where a particular tariff line has an interim tariff rate, the lower of the interim tariff and the standard applied MFN tariff is adopted for countries or customs territories to which China accords at least MFN treatment. Interim rates do not apply to imports to which general tariff rates are applied. As MFN tariffs and interim tariffs both apply on an annual basis, and the interim rates are usually lower than the standard applied MFN tariff rates, the interim tariff effectively replaces the MFN tariff for the relevant products. The authorities state that interim duties have been introduced to encourage imports

[16] Regulations on Import and Export Tariff, Article 9.

[17] China revised its tariff schedule in December 2007, so that the 2008 applied MFN tariff consists of 7,758 lines. The applied MFN tariff rates were lowered on 45 lines at the HS 8-digit level. Apparently, the simple average tariff rate remains the same as in 2007 (State Council Tariff Commission Notice on 2008 Tariff Schedule. Viewed at: http://www.china.com.cn/policy/txt/2007-12/27/content_9442200.htm (in Chinese) [8 February 2008]).

[18] The tariff lines subject to specific rates were mainly in Chapters 37 (photographic and cinematographic goods), 2 (meat and edible offal of poultry), and 5 (frozen gizzards). The tariff lines subject to alternate rates were mainly in Chapter 40 (natural rubber), and the compound rates applied to five lines in Chapter 85 (video tape recorders and television cameras).

[19] The authorities indicate that the criteria used to select goods subject to interim tariffs are different for different types of products. For example, for raw materials, the criterion is domestic demand, and for some parts and equipment, it is the level of processing.

[20] If including "ex-" lines, interim tariffs applied to another 164 tariff lines. However, the analysis here includes only the 149 lines that were fully subject to interim rates. In the 2008 tariff schedule, there are 624 tariff lines subject to interim tariffs, of which, 212 are "ex-" lines. These interim tariffs, however, apply from 1 January to 31 March 2008 (MOF online information. Viewed at: http://www.mof.gov.cn/news/file/20071226shuiweihuei200725f3_20071226.pdf (in Chinese) [8 February 2008]).

of products with a view to reducing China's trade surplus; however, the effect of these lower duties on imports is likely to be small, as they reduced the overall average applied MFN rate by a mere 0.1 percentage point (from 9.8% to 9.7%) in 2007. Tariff-rate quotas (TRQs) are specified in the applied MFN tariff schedule; the quotas currently apply to wheat, maize, rice, sugar, wool, wool tops, cotton, and chemical fertilizers (see below). In 2007, China's applied MFN tariff contained 65 different *ad valorem* rates, ranging from zero to 65% (same as in 2005) (Chart III.2).

Table III.2
Structure of the MFN tariff
(Per cent)

		2001	2003	2005	2007	Final bound[a] rate
	Bound tariff					
1.	Bound tariff lines (% of all tariff lines)	n.a.	100.0	100.0	100.0	100.0
2.	Simple average bound rate	n.a.	11.3	10.0	9.9	9.9
	Agricultural products (HS 01-24)	n.a.	16.4	14.7	14.6	14.6
	Industrial products (HS 25-97)	n.a.	10.4	9.1	9.1	9.1
	WTO agricultural products	n.a.	16.9	15.3	15.3	15.3
	WTO non-agricultural products	n.a.	10.4	9.1	9.0	9.0
	Textiles and clothing	n.a.	15.1	11.5	11.5	11.5
3.	Tariff quotas (% of tariff lines)	n.a.	0.7	0.7	0.6	0.6
4.	Duty-free tariff lines (% of tariff lines)	n.a.	5.9	7.7	7.7	7.7
5.	Non-*ad valorem* tariffs (% of tariff lines)	n.a.	0.0	0.0	0.0	0.0
6.	Non-*ad valorem* tariffs with no AVEs (% of tariff lines)	n.a.	0.0	0.0	0.0	0.0
7.	Nuisance bound rates (% of tariff lines)[b]	n.a.	2.3	2.6	2.6	2.6
	Applied tariff					
8.	Simple average applied rate	15.6	11.1	9.7	9.7 (9.7)	n.a.
	Agricultural products (HS 01-24)	23.2	16.3	14.6	14.5 (14.5)	n.a.
	Industrial products (HS 25-97)	14.3	10.1	8.9	8.8 (8.9)	n.a.
	WTO agricultural products	23.1	16.8	15.3	15.3 (15.2)	n.a.
	WTO non-agricultural products	14.4	10.1	8.8	8.8 (8.8)	n.a.
	Textiles and clothing	21.1	15.1	11.5	11.5 (11.5)	n.a.
9.	Domestic tariff "peaks" (% of all tariff lines)[c]	1.7	1.9	2.6	2.3 (2.4)	n.a.
10.	International tariff "peaks" (% of all tariff lines)[d]	40.1	25.2	15.6	15.4 (15.6)	n.a.
11.	Overall standard deviation of tariff rates	12.2	8.4	7.6	7.5 (7.5)	n.a.
12.	Coefficient of variation of tariff rates	0.8	0.8	0.8	0.8 (0.8)	n.a.
13.	Tariff quotas (% of all tariff lines)	0.9	0.7	0.7	0.6 (0.6)	n.a.
14.	Duty free tariff lines (% of all tariff lines)	3.0	6.7	8.6	8.7 (8.7)	n.a.
15.	Non-*ad valorem* tariffs (% of all tariff lines)	0.7	0.7	0.7	0.7 (0.7)	n.a.
16.	Non-*ad valorem* tariffs with no AVEs (% of all tariff lines)	0.7	0.7	0.7	0.7 (0.2)	n.a.
17.	Nuisance applied rates (% of all tariff lines)[b]	1.5	2.1	2.6	2.7 (2.7)	n.a.

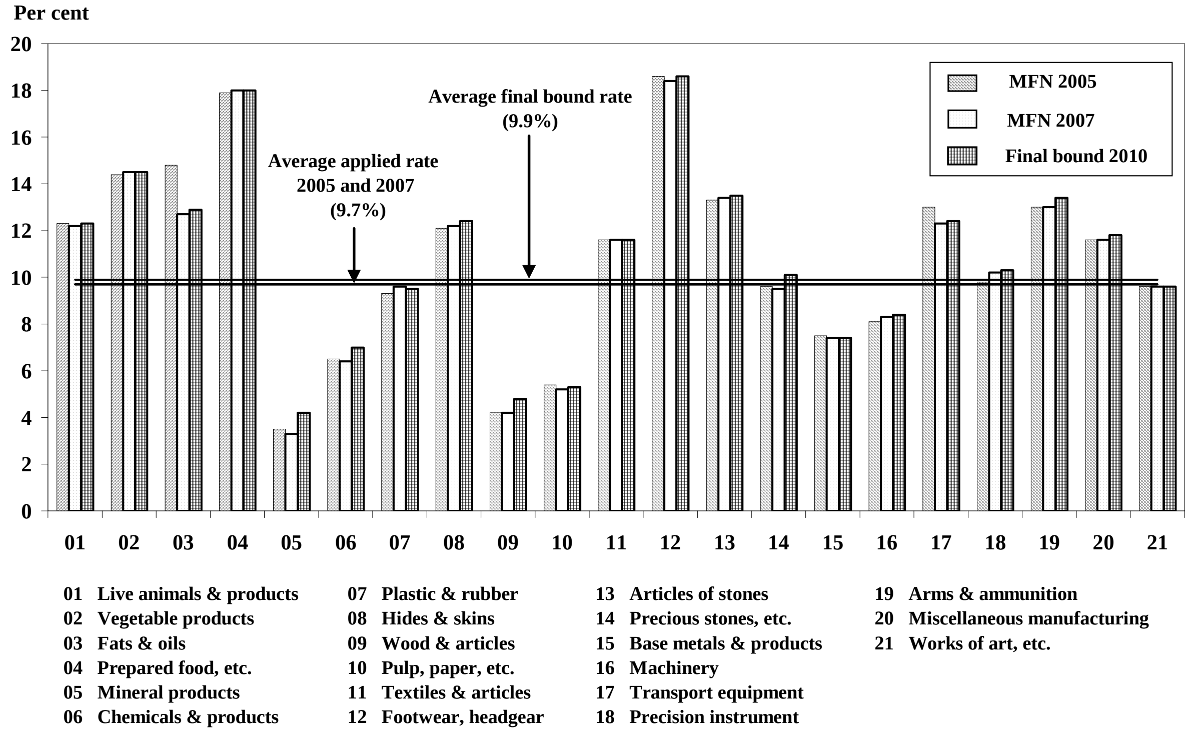
n.a. Not applicable.

a Based on 2007 tariff schedule. Implementation of final bound rates to be reached in 2010. Currently all but 45 tariff lines have reached the U.R. implementation rate; 40 tariff lines are to follow in 2008 and 5 more in 2010.
b Nuisance rates are those greater than zero, but less than or equal to 2%.
c Domestic tariff peaks are defined as those exceeding three times the overall simple average applied rate (indicator 8).
d International tariff peaks are defined as those exceeding 15%.

Note: The 2001 tariff is based on HS96 nomenclature and consists of 7,111 tariff lines; the 2003 and 2005 tariffs are based on HS 02 nomenclature and consist of 7,445 and 7,550 tariff lines, respectively; the 2007 tariff is based on HS 07 nomenclature and consists of 7,645 tariff lines. Calculations exclude in-quota rates and specific rates. The *ad valorem* part of alternate rates were taken into account for the calculations. Calculations for MFN applied tariffs were based on applied duty rates including the interim duty rates. The simple averages not including interim rates are respectively 15.9%, 11.2%, 9.9% and 9.8% for 2001, 2003, 2005 and 2007. For 2007, data in brackets include AVEs for specific rates provided by the authorities, as available. Also, for 2007, interim duty rates are only included when fully applied at 8-digit level. For the other years, interim duty rates are also included when partly applied to an 8-digit tariff line.

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

Chart III.1
Average applied MFN rates 2005 and 2007 and final bound tariff, by HS section



Note: Calculations exclude specific and in-quota tariff rates and include the *ad valorem* part of alternate rates. Applied averages are calculated including interim duty rates.

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

22. In 2007, the overall simple average applied MFN duty rate in China remained at 9.7%[21], the same as in 2005, owing partly to changes in the HS nomenclature, and to the small proportion of tariff lines had their rates reduced or increased.[22] The simple average applied MFN duty rate for agricultural products (WTO definition) and non-agricultural products in 2007 also remained the same as in 2005, at 15.3% and 8.8%, respectively.[23]

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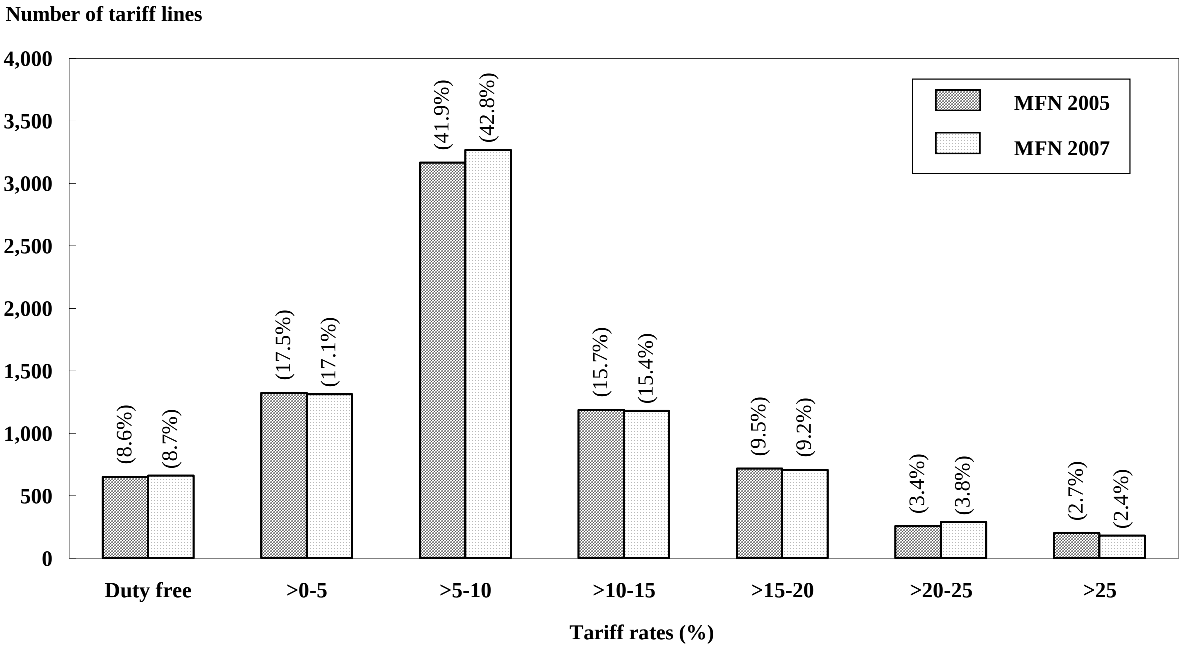
[21] The analysis in this report includes interim rates and out-of-quota rates (instead of in-quota rates); as China acceded to the WTO Agreement on Information Technology (ITA) in April 2003, the analysis also uses ITA tariff rates, which are incorporated in China's schedule of applied MFN tariffs. Further, the analysis here excludes both inward article duties, and tariff exemptions for imports under processing trade (section (2)(iii)(c)). With AVEs included, the overall simple average applied MFN duty rate in China still remains at 9.7% in 2007.

[22] Between 2005 and 2007, China reduced its applied MFN rates unilaterally on around 3% of total lines, with rates reduced between 0.2 percentage points and 12.9 percentage points. Applied MFN duty rates were reduced, for example, on: 143 lines (at the HS 8-digit) on 1 January 2006, 42 lines on 1 July 2006, and 44 lines on 1 January 2007. On 1 June 2007, interim duties were lowered on 209 tariff lines, including natural resources and parts and components. Tariff rates were increased for: fresh cheese and curd (from 10% in 2005 to 12% in 2007); belts and bandoliers (from 0 to 10%); electro-thermal water dispensers and other electro-thermal appliances (from 18.3% to 32%); and certain swimwear of synthetic fibres (from 16% to 17.5%). The number of tariff lines for which applied MFN duty rates were increased was less than the number of lines for which duty rates were reduced.

[23] The simple average applied MFN duty rates for agricultural products (WTO definition) and non-agricultural products in 2007 including AVEs were 15.2% and 8.8%, respectively.

Chart III.2
Distribution of MFN tariff rates, 2005 and 2007



Note: **Figures in parentheses indicate the share of total lines. Totals do not add to 100% as no tariff rates are available for 0.6% of the tariff lines (i.e. those that have specific tariff rates) for both years. Calculations exclude in-quota rates and specific rates, and include interim duty rates.**

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

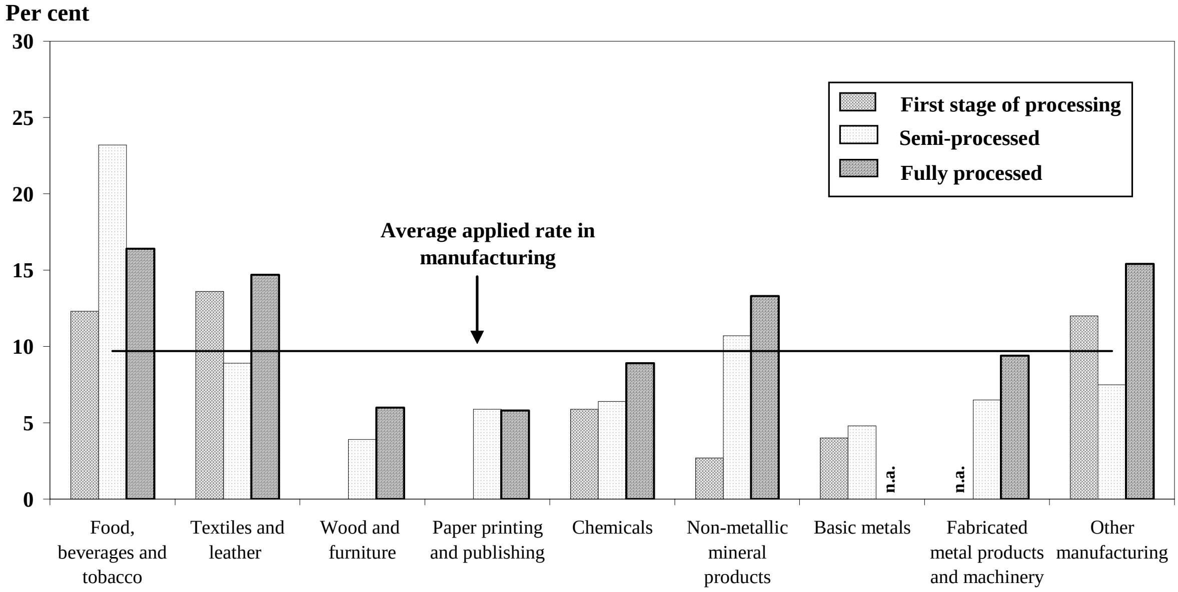
23. The dispersion in applied MFN rates, indicated by the coefficient of variation, has also remained unchanged since 2005, at 0.8%. The standard deviation of tariff rates was 7.5%, slightly lower than the 7.6% in 2005.

24. Tariff "escalation" occurs when import tariffs on products increase as they undergo processing (or add value). Tariff escalation results in a bias against imports of more processed goods and therefore gives an effective rate of tariff protection to the processed goods that is higher than the nominal rate.[24] China's applied MFN duties are subject to negative escalation between unprocessed and semi-processed products, and positive escalation between semi-processed and fully processed products (Chart III.3).[25]

[24] The effective rate of protection (ERP) measures the protection provided by the entire structure of tariffs, taking into account those levied on inputs as well as those on final products.

[25] The discrepancy between tariffs applied to semi-processed and processed goods can be a potential impediment to the efficient allocation of domestic resources, as well as an obstacle to local processing of semi-finished goods in the exporting countries; consequently, it can impede the industrialization of developing countries and LDCs seeking to export products with higher value-added to China, if not mitigated by preferential schemes.

Chart III.3
Tariff escalation by 2-digit ISIC industry, 2007



n.a. **Not applicable.**

Note: **Calculations exclude in-quota and specific rates, and include interim duty rates.**

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

Tariff-rate quotas

25. Tariff-rate quotas (TRQs) are regulated under the Interim Measures on Administration of-Tariff Rate Quota for Importation of Agricultural Products and the Interim Measures on the Administration of Tariff Rate Quota for Importation of Fertilizers. Quantities of TRQs, their allocation methods, and application conditions are published annually in MOFCOM and NDRC online information.

26. On 1 January 2006, TRQs on soybean oil, palm oil, and rapeseed oil (10 items) were eliminated; these items are currently subject to automatic import licences (section (2)(v)). As a consequence, in 2007, TRQs were applied to 8 categories of imported goods, involving 45 tariff lines at the HS 8-digit level. These were wheat (6 lines), maize (5), rice (14), sugar (6), wool (6), wool tops (3), cotton (2), and chemical fertilizers (3). In 2007, a sliding duty, ranging from 6% to 40%, was applied to out-of-quota imports of cotton[26]; the average applied in-quota rate was 4.8%, while the out-of-quota rate around 50%.

27. TRQs for the next calendar year are allocated to users no later than 31 December of the current year; quotas are then valid throughout the next calendar year. Unused quotas must be returned to the authorities (within a scheduled time limit) for reallocation. TRQ holders that do not

[26] Application of the sliding duty (5%-40%) on out-of-quota imports of cotton began in 2005. The duty rates were changed to 6%-40% in 2006. In 2007, it was applied so that, for cotton valued above a certain threshold, the 6% tariff rate applied; for cotton valued below the threshold, the rate was calculated based on an equation, but no higher than 40%, taking into consideration the interim tariff rate, c.i.f. price of cotton, and the exchange rate. The threshold for year 2007 was Y 11.397 per kg. The sliding duty rates were again changed, to 5%-40% in 2008.

fully use the TRQ for the year and do not return the unfilled quota within the scheduled time limit, will have their quota allocation for the subsequent year reduced.

28. Applications must be submitted to entities with the authorization of either MOFCOM (for sugar, wool, wool tops, and chemical fertilizers), or the NDRC (for grain and cotton). MOFCOM and NDRC, through the authorized entities, allocate import tariff-rate quotas to applicants. The allocation of TRQs for agricultural products is based on the number of applicants, previous import performance, production capacity, and other relevant standards. The allocation of TRQs for wool and wool tops is on a "first come, first served" basis.[27] TRQs for chemical fertilizers are allocated on the basis of the number of applicants, previous import performance, capacity of production and operation, quota utilization record, and other factors.

(b) "Agreement", "special preferential", and general rates

Agreement tariff rates

29. Under its bilateral and regional trade agreements, China offers preferential tariff rates (agreement rates) to: members of the Asia-Pacific Trade Agreement (APTA); members of ASEAN; the Special Administrative Regions of Hong Kong and Macao; Chile; and Pakistan (Table III.3).

30. Under the APTA[28], tariffs were reduced on certain imports from Bangladesh, India, the Republic of Korea, Lao PDR, and Sri Lanka on 1 January 2006 and 1 September 2006.[29] Consequently, the average preferential tariff under the APTA fell to 9.1% in 2007 (from 9.5% in 2005). The rates for imports of agricultural products (WTO definition) and non-agricultural products were 14.3% and 8.3% respectively, slightly lower than the corresponding applied MFN duty rates (15.3% and 8.8%).

31. Under the Framework Agreement on Comprehensive Economic Cooperation between China and ASEAN, zero tariffs were applied to some imports from six ASEAN countries on 20 July 2005 (Brunei, Indonesia, Malaysia, Myanmar, Singapore and Thailand). On 1 July 2006 and 1 January 2007, tariff reductions were implemented to some imports from the Philippines and Viet Nam.[30] Imports from Cambodia and Lao PDR are subject to reduced tariffs under the Early Harvest Programme under the Framework Agreement on Comprehensive Economic Cooperation between China and ASEAN. In 2007, the average preferential rates for ASEAN members ranged from 6.0% to 9.0%, lower than the overall applied MFN average (9.7%).

32. Under the Closer Economic Partnership Agreements (CEPAs), the overall average preferential rates for goods originated in Hong Kong and Macao SARs were 7.5% and 8.5%, respectively, in 2007. In the same year, the average preferential tariff under the China – Chile FTA was 3.5%, the lowest among "agreement rates".[31] Under the China – Pakistan FTA, which entered into force on 1 July 2007, China applied preferential tariffs to 5,874 tariff lines including 2,171 lines subject to preferential tariffs under the Early Harvest Programme for the Free Trade Agreement

[27] Reallocation of TRQs is also on a "first come, first served" basis.
[28] The Bangkok Agreement was renamed the Asia-Pacific Trade Agreement in 2 December 2005.
[29] Further reductions were made on 1 January 2008.
[30] The authorities state that the average agreement tariff rate with the eight ASEAN members was 6.3%.
[31] Further reductions were made on 1 January 2008.

between China and Pakistan.[32] This lowered the overall average preferential tariff to 7.9% (from 8.2%).

Table III.3
Summary analysis of China's preferential tariff, 2007
(Per cent)

	Number of preferential lines	Overall average	WTO agriculture	Grains	WTO non-agriculture	Leather, rubber, footwear & travel goods	Textiles & clothing	Transport equipment	Petroleum
MFN		9.7	15.3	33.9	8.8	12.7	11.5	12.5	5.5
Preferential tariff rates									
APTA[a]	1,652	9.1	14.3	33.8	8.3	11.5	10.4	12.0	5.4
ASEAN[b]									
Brunei Darussalam	5,188	6.1	6.5	33.9	6.0	7.5	7.8	11.7	4.9
Cambodia	486	8.8	10.3	33.9	8.5	12.7	11.5	12.5	5.5
Indonesia	4,941	6.2	6.5	33.9	6.1	8.5	8.2	11.8	5.4
Laos	372	9.0	12.0	33.9	8.5	12.7	11.5	12.5	5.5
Malaysia	4,973	6.1	6.5	33.9	6.1	8.2	8.3	10.9	4.9
Myanmar	5,146	6.0	7.5	33.9	5.8	7.5	7.2	9.7	4.9
Philippines	4,974	6.5	8.7	33.9	6.1	8.0	8.1	11.3	4.9
Singapore	5,270	6.0	6.5	33.9	5.9	7.4	7.8	9.6	4.9
Thailand	4,939	6.2	6.9	33.9	6.1	8.6	7.8	11.3	4.9
Viet Nam	4,929	6.2	7.1	33.9	6.1	7.7	8.0	11.0	5.5
Hong Kong, China	1,443	7.5	13.3	33.9	6.6	9.3	5.4	12.4	5.2
Macao, China	644	8.5	14.3	33.9	7.6	11.3	7.8	12.5	4.9
Pakistan (up to 30 June)	2,171	8.2	13.6	33.8	7.4	11.1	6.3	12.0	5.4
Pakistan (as of 1 July)	5,874	7.9	13.4	33.6	7.0	10.8	6.1	11.6	5.1
Chile	6,722	3.5	8.3	33.2	2.8	4.2	0.3	0.7	4.0
Unilateral preferential tariff rates for LDCs									
Special rates for 28 African LDCs[c]	186	9.5	15.0	33.9	8.6	12.0	11.1	12.5	5.2
Special rates for									
Bangladesh	165	9.5	15.1	33.9	8.6	11.2	10.7	12.5	5.5
Cambodia	242	9.3	13.9	33.9	8.5	12.7	10.7	12.5	5.5
Laos	446	9.0	13.1	33.6	8.3	11.2	9.7	12.5	5.5
Myanmar	390	9.1	12.6	33.9	8.5	12.0	10.5	12.5	5.5
Special rates for some Asia and Pacific countries[d]	278	9.2	14.9	33.9	8.3	12.0	10.1	12.5	5.5
Bangladesh[e]	1,708	8.9	14.2	33.8	8.1	10.3	9.7	12.0	5.4
Laos[f]	2,144	8.0	9.6	33.5	7.7	10.3	8.8	12.0	5.4
Cambodia[g]	606	8.6	9.8	33.9	8.4	12.7	10.7	12.5	5.5
Myanmar[g]	5,197	5.9	6.7	33.9	5.8	7.1	7.1	9.7	4.9

a Preferential rates under APTA apply to Bangladesh, India, the Republic of Korea, Lao PDR, and Sri Lanka.
b Including Early Harvest Arrangement as applicable.
c These are Angola, Benin, Burundi, Cape Verde, Central African Republic, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Guinea, Guinea-Bissau, Lesotho, Liberia, Madagascar, Mali, Mauritania, Mozambique, Niger, Rwanda, Senegal, Sierra Leone, Sudan, Tanzania, Togo, Uganda, and Zambia.
d These are Afghanistan, the Maldives, Samoa, Vanuatu, and Yemen.
e Including APTA preferential rates, and special preferential tariff rates.
f Including APTA preferential rates, ASEAN preferential rates, and special preferential tariff rates.
g Including ASEAN preferential rates, and special preferential tariff rates.

Note: Calculations exclude in-quota and specific rates and include interim duty rates. The number of preferential lines only corresponds to tariff lines that are lower than MFN applied (including interim) rates.

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

[32] Under the Agreement on the Early Harvest Programme for the Free Trade Agreement between China and Pakistan, from 1 January 2006, China reduced tariffs on 2,171 lines (HS 8-digit) originating in Pakistan. Further reductions were made on 1 January 2008.

Special preferential tariff rates

33. In 2007, unilateral special preference tariffs (zero rated) were offered to imports of some goods from 37 least developed countries (LDCs) with which China has certain tariff agreements.[33] Average tariffs on these LDCs ranged from 9.0% to 9.5%, slightly lower than the overall simple average applied MFN rate (9.7%). The authorities indicate that 98% of imports from these LDCs enjoy zero tariff rates.

General tariff rates

34. General tariff rates have remained unchanged since China's previous Trade Policy Review; they are applied to imports from countries or customs territories that do not have reciprocal trade agreements with China or to imports whose origin cannot be determined. These rates apply to El Salvador, as well as the territories of some EC member States.[34]

(c) Tariff exemptions and reductions

General tariff exemptions and reductions

35. Duty exemptions and reductions may apply to goods imported into or exported from designated areas, by designated enterprises, or for designated uses, "in accordance with the provisions set out in the relevant regulations by the State Council".[35] In addition, tariff exemptions apply to: goods whose value per unit including the tariff is Y 50 or less; 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.[36]

Border trade

36. Preferential treatment, including through tariff preferences, is applied to some border trade activities under the Circular of the State Council on Issues Concerning Border Trade, issued in 1996.[37] Since the previous Review, there have been no policy changes in relation to border trade. In 2006, border trade accounted for 0.92% of total imports plus exports in terms of volume, the same as in 2005.

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[33] In 2008, unilateral special preference tariffs were also offered to imports of some goods from Somalia and Chad.

[34] China applies general rates to: Afghanistan, Andorra, Aruba, Bahamas, Bermuda, Bhutan, Bonaire Islands, Canary Islands, Cayman Islands, Ceuta, Comorin, Curacao, El Salvador, French Guyana, Gambier Islands, Gibraltar, Guadeloupe, Liberia, Marquesas Islands, Marshall Islands, Martinique, Melilla, Montserrat Island, Nauru, Norfolk, Island, New Caledonia, Palau, Palestine, Reunion, Sabah, Saint Martins Island, Sao Tome and Principe, the Republic of San Marino, Seychelles, Society Islands, Tuamotu Islands, Tubai Islands, Turks and Caicos Islands, Tuvalu, Vatican City, British Virgin Islands, and Western Sahara.

[35] "Designated areas" refer to areas for which certain policies are designed and implemented, such as the special economic zones. "Designated enterprises" refer to enterprises for which certain policies are designed and implemented on the basis of type of enterprise, such as foreign-invested enterprises. "Designated use" refers to imports for which certain policies are designed and implemented based on use of the product.

[36] Regulations on Import and Export Tariff.

[37] For details of the preferential treatment regarding border trade, see WTO (2006).

Processing trade

37. Goods imported under "processing trade", whereby the imported goods are processed into exports, can be imported in bond and exempt from payment of import duties as long as they are processed and exported within a certain period. Processing trade has played a significant role in China's international trade: in the first half of 2007, imports plus exports under processing trade accounted for 45% of China's total trade.[38]

38. To reduce energy consumption and protect the environment, the Government may not grant preferential treatment under processing trade on certain goods. Such exclusion of certain goods from preferential treatment is called "import prohibition under processing trade". However, these goods can be imported if import tariffs are paid, subject to any applicable non-tariff restrictions. Since 2005, various products have been subject to "import prohibition under processing trade", including: some iron and steel; alumina and ferro-alloy ore; and certain "highly energy-consuming" or "highly polluting" products. Some 269 HS 8-digit tariff lines comprising mainly animal products, minerals, and chemical products were covered in 2007, up from 143 lines in 2005.[39] In addition, 128 lines of used electronic and mechanical products are also subject to import prohibitions under processing trade.

(d) "Inward article" duty

39. An inward article duty is levied on luggage and other personal items belonging to persons entering the Customs Territory of China in excess of a "reasonable amount that suffices for personal use", which is determined by the General Administration of Customs, based on an "internationally exercised principle".[40] From 1 January 2007, four duty rates, i.e. 50%, 30%, 20%, and 10%, apply, depending on products (Table AIII.1). No import tariff, excise tax, or VAT is charged once inward article duties are paid. Some imported goods, irrespective of quantity, are subject to inward article duties. The scope of such articles is determined by the Tariff Commission under the State Council; currently, no products are designated in this way.

(iv) Indirect taxes affecting imports

40. Imports, like domestic products, are subject to value-added tax; the current rates are 17% and 13% for most goods (section (4)(i)). Agricultural products sold by farmers directly to consumers are exempt from VAT, while imports of like products are subject to VAT (Chapter IV(2)(iii)). On 15 September 2007, China lowered the VAT rate, from 17% to 13%, on imported audio and video products and other forms of electronic publications.[41] Thus, these imports appear to pay lower VAT than domestically produced products. Some imports may be subject to tax reductions or exemptions, such as those destined for special economic zones (section (4)(i)(d)).

41. In addition to import tariffs and VAT, an excise tax (consumption tax) is also levied at the border on certain items. The list of excisable products and excise rates was revised on 1 April 2006

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[38] MOFCOM online information. Viewed at: http://www.mofcom.gov.cn/aarticle/zhengcejd/bl/bu/00707/20070704916710.html (in Chinese) [8 February 2008].

[39] Of the 269 lines, 138 were also subject to export prohibitions under processing trade.

[40] The authorities state that, "reasonable amount" refers to the usual amount each person is allowed to bring inward for personal use, considering his/her duration of stay and destination. "Internationally exercised principle" refers to the Kyoto Convention and relevant regulations implemented by customs of many other countries.

[41] Central Government online information. Viewed at: http://www.gov.cn/zwgk/2007-09/20/content_756025.htm (in Chinese) [8 February 2008].

(section (4)(i)); as a result, in addition to cigarettes, alcoholic beverages, gasoline, cosmetics, and cars, excise tax is also applied to golf balls and equipment, luxury watches, yachts, disposable wooden chopsticks, and wooden floorboards.[42] The tax rates are the same for domestically produced goods and imports.[43] In 2006, excise tax revenues collected from imports and from domestically produced goods[0] were Y 10.6 billon and Y 188.6 billon, respectively.

(v) Import prohibitions, restrictions, and licensing

(a) Import prohibitions

42. The number of tariff lines subject to import prohibitions increased from 30 (at the HS 8-digit level) in 2005 to 54 in 2007.[44] In addition, 441 lines were partially subject to import prohibition in 2007 ("ex" lines mainly referring to used or scrap machinery, transport and precision equipment) (458 lines in 2005). Thus, around 6.5% of tariff lines were subject to import prohibitions (0.7% if taking only the lines fully covered) in 2007. According to the authorities, import prohibitions are maintained on grounds of, *inter alia*, public interest, environmental protection, or in accordance with international commitments. Prohibitions include some products of animal origin, opium, mineral products, rubber, chemicals, raw hides, waste of skins and leather, used clothes, ash of precious metals, base metals, second-hand precision equipment, games, and imports of used articles of HS sections 16 and 17 (machinery and transport equipment).[45]

43. In accordance with the Foreign Trade Law, MOFCOM may issue temporary import prohibitions or restrictions, which are mainly related to restrictions under international conventions. According to the authorities, apart from certain TBT/SPS measures, the only product subject to temporary import prohibition is diamonds from Liberia.

(b) Restrictions and licensing

44. Quantitative restrictions on imports were eliminated on 1 January 2005, and the relevant products were moved into the category of free importation, or automatic import licences. China notified its import licensing regime in 2006[46]; the licensing regime applies equally to goods from all countries or customs territories.

45. The import licensing regime is regulated by the Foreign Trade Law, the Administrative Permission Law, as well as the Measures on Administration of Import Licences for Goods, and the Measures on Administration of Automatic Import Licensing for Goods. Details of commodities subject to import licensing are published annually by the MOFCOM in the Catalogue of Goods Subject to Import Licence Administration and the Catalogue of Goods Subject to Automatic Import Licensing Administration. Licences are not transferable. No fees, charges, deposits or advance payments are required for the issuance of licences.

[42] Notice on Adjustment and Improvement of Consumption Tax Policy. Viewed at: http://www.gov.cn/banshi/2006-03/23/content_234946.htm (in Chinese) [11 February 2008].

[43] The authorities maintain that the purpose of imposing excise tax on some products is to "guide" production and consumption of these products, not to restrict imports. For like products, the same tax rate is applied to imported and domestically produced goods.

[44] The 2005 figures are based on HS 2002 nomenclature, and the 2007 figures are based on HS 2007 nomenclature.

[45] Customs online information. Viewed at: http://www.customs.gov.cn/YWStaticPage/4239/5f1b7a39.htm (in Chinese) [11 February 2008], and http://www.customs.gov.cn/YWStaticPage/4239/ ffe9c4cb.htm (in Chinese) [11 February 2008].

[46] WTO document G/LIC/N/3/CHN/5, 3 October 2006.

Non-automatic import licences

46. Non-automatic import licences were mostly issued in accordance with China’s obligations under international conventions. In 2007, the number of HS 8-digit tariff lines fully subject to import licensing fell to ten (less than 0.1% of total tariff lines), from 90 (1.20%) in 2004. The ten lines were mainly ozone-depleting substances.[47] No lines are partially subject to import licensing requirements (compared with 32 lines in 2004).

47. Applicants must apply for an import permit prior to applying for an import licence. Import permits for ozone-depleting substances are issued by the State Environmental Protection Administration. Applicants are required to submit the business certificate of registered companies and "record registration form" of foreign trade operators. Foreign-invested enterprises must also submit their certificates of approval. If the importers are state-owned enterprises, additional requirements include "related documents of MOFCOM or the departments concerned". Once the permit is obtained, a licence is granted automatically by MOFCOM to the importer. The licence is issued within ten working days; however, if justification for importation is "unconvincing", the application may be refused. The definition of "unconvincing" was not clear to the Secretariat. Importers can appeal to the MOFCOM if they are not satisfied with the decision. The licence is valid throughout the calendar year, and can be extended once, for a maximum of three months.

48. Until 2007, products subjected to import licences included chemicals used for military purposes, and toxic materials. These products are now covered under the Provisions on Administration of Import and Export Licences for Dual-Purpose (civilian and military) Goods and Technologies (issued by MOFCOM and Customs, effective 1 January 2006).[48] Thus, the decline in the number of tariff lines subject to import licensing (from 90 to 10) is because of the issuance of the Provisions. Import permits for these products are issued by NDRC or MOFCOM, depending on the product.[49] Once the permit is obtained, a licence is granted by MOFCOM. Licences are valid until the end of the calendar year, and can be extended once for a maximum of three months.

Automatic import licences

49. Products that are not subject to import restrictions but require import monitoring for statistical purposes are subject to automatic import licences, which involves no restriction in terms of import quantity or value. The number of tariff lines fully and partially subject to automatic import licences was lowered from 1,205 in 2005 (16% of the tariff) to 604 (7.9%) in 2007. The number of lines fully subject to automatic import licences decreased from 478 in 2006 to 108 in 2007.[50] These tariff lines

[47] *Catalogue of Goods Subject to Import Licence Administration of 2007*, MOFCOM and GAC Announcement No. 99 of 2006. Viewed at: http://www.mofcom.gov.cn/aarticle/b/c/200612/ 2006120418 5369.html (in Chinese) [11 February 2008].

[48] Provisions on Administration of Import and Export Licences for Dual-Purpose Goods and Technologies. Viewed at: http://www.law-lib.com/law/law_view.asp?id=126558 (in Chinese) [11 February 2008].

[49] For chemicals licensed under the Chemical Weapons Convention, permits were issued by the Office of Implementing the Convention on the Prohibition of the Development of Chemical Weapons, based in the NDRC; for chemicals used to produce narcotics, permits were issued by MOFCOM.

[50] Under MOFCOM and GAC Announcement No. 14 (promulgated on 10 March 2007), 338 tariff lines fully subject to automatic import licences were eliminated from the *Catalogue of Goods Subject to Automatic Import Licensing*; as a result, 140 tariff lines were fully subject to automatic import licences as of 1 April 2007. MOFCOM and GAC Announcement No. 43, of 20 May 2007, eliminated a further 32 tariff lines effective on 10 June 2007.

concerned poultry, vegetable oil, tobacco, copper, copper ore and concentrates, coal, natural rubber, waste paper, cellulose diacetate filament tow, aluminium, and scrapped steel.[51]

50. Applications for automatic import licences must be submitted to the relevant entities authorized by MOFCOM.[52] As long as the content and format of the application are correct, the licence is granted immediately; under special circumstances, it may take up to ten days to issue a licence. An automatic import licence is valid for a maximum 180 days within a given calendar year; it can be extended in case of an incomplete importation, or an unperformed business contract. The licence may be cancelled at any time by MOFCOM if it decides to temporarily prohibit imports of the goods or to impose a quantitative restriction.[53] Such temporary prohibitions or restrictions may be imposed, *inter alia*, under international conventions or due to a disease outbreak; the authorities state that since China's accession to the WTO, there have been no such temporary prohibitions or restrictions.

(vi) State trading

51. Since its previous Review, while China has not made any notification to the WTO regarding its state trading activities, the number of products subject to state trading has apparently been reduced.

52. Imports of vegetable oil (rapeseed oil, palm oil, and soybean oil) were removed from state trading from 1 January 2006. In 2007, China maintained state trading in, *inter alia*: grain (including wheat, maize, and rice), sugar, tobacco, crude oil and processed oil, chemical fertilizer, and cotton (Table AIII.2). MOFCOM issues and adjusts annually the lists of goods subject to state trading and of authorized state trading enterprises (STEs). The criteria used to adjust the list of goods subject to state trading were not provided to the Secretariat.

53. Data provided by the authorities show that the shares of tariff rate quotas allocated to STEs remain high and relatively unchanged. In 2007, STEs accounted for 90%, 70%, 60%, 50% and 33% of total quotas allocated for wheat, sugar, maize, rice, and cotton, respectively. Under China's WTO Accession Protocol, imports of processed and crude oil are to be increased annually by 15% for the first ten years after accession, after which increases are to be reviewed by Members.[54] It would appear that no review of the annual growth in volume of processed oil imported by non-state-trading enterprises has been conducted with interested Members.[55] Further, substantial amounts of cotton continued to be imported beyond the amount set under the tariff rate quotas. In 2007, the quota amount was set at 894,000 tonnes, while 2.46 million tonnes were imported; data on the share of STEs in the out-of-quota imports were not available to the Secretariat.

54. Some products subject to state trading can also be imported by other enterprises that meet certain criteria. For wheat, maize, rice, sugar, and cotton, such criteria are described in the annual announcement of the quota volume and allocation methods; for fertilizers, crude and processed oil, they are set out in MOFTEC Decree No. 27 of 2002 and MOFTEC Announcement No. 19 of 2002.

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[51] MOFCOM online information. Viewed at: http://www.mofcom.gov.cn/aarticle/b/c/200703/20070304505934.html (in Chinese) [11 February 2008], and http://www.mofcom.gov.cn/aarticle/b/c/200705/20070504710894.html (in Chinese) [11 February 2008].

[52] See WTO (2006) for details of issuing entities for automatic import licences.

[53] The temporary measures are to be published 30 days before their entry into force (WTO document G/LIC/N/3/CHN/5, 3 October 2006, p. 4). The authorities state that China reserves its legitimate right to impose quantitative restriction on imports, but has no intention of doing so in practice.

[54] WTO document WT/ACC/CHN/49, 1 October 2001.

[55] WTO document G/C/W/591, 19 November 2007.

(vii) Contingency measures

(a) Anti-dumping and countervailing measures

Anti-dumping measures

55. Since its previous Trade Policy Review, China's institutional and procedural framework on anti-dumping measures has remained largely unchanged. Anti-dumping measures may be taken under the Foreign Trade Law and the Regulations on Anti-Dumping. MOFCOM is responsible for investigating and determining dumping and injury.[56] Anti-dumping complaints may be brought to MOFCOM in writing by any domestic industry, or by natural or legal persons, or relevant organization, on behalf of domestic industry.[57] MOFCOM can decide to self-initiate an anti-dumping investigation, if it has sufficient evidence of the existence of dumping, injury, and the causal link; MOFCOM has not self-initiated any investigations during the review period.

56. MOFCOM's Rules on Information Access and Disclosure in Industry Injury Investigations entered into force on 3 September 2006. According to the rules, information related to an industry-injury investigation, apart from classified information, must be notified to all interested parties.[58] MOFCOM usually notifies the relevant information to interested parties 30 days before making its final decision.[59]

57. If MOFCOM determines in a preliminary investigation that a firm's pricing behaviour has led to the injury of a domestic industry, provisional measures can be applied; these include imposition of provisional anti-dumping duties, or provision of deposits, bonds, or other forms of guarantees.[60] Provisional measures may not exceed four months, but, in "special circumstances", may be extended to nine months. According to the authorities, "special circumstances" refer to cases where the authorities need to examine whether a duty lower than the margin of dumping would be sufficient to compensate the industries for their loss. Following the preliminary decision, MOFCOM continues the investigation, which must be completed within 12 months of the decision to initiate, or 18 months under special circumstances, including particularly complicated cases.

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[56] The Bureau of Fair Trade for Imports and Exports (BOFT) is in charge of the investigation process and determining whether dumping has occurred. The Investigation Bureau of Industry Injury investigates and determines injury caused to industry. These two bureaux in MOFCOM are jointly responsible for determining the causal link between dumping and injury. When the anti-dumping investigation involves agricultural products, the injury investigation is conducted jointly by MOFCOM and the Ministry of Agriculture.

[57] The application should 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 should have supporting evidence on the existence of dumping, injury caused to the domestic industry, and of a causal link between dumping and injury.

[58] Classified information refers to the information that cannot be obtained through public channels and that, once published, will result in substantive profits to competitors, or cause substantive harmful effects to the information provider or the information source, or cause other harmful effects. Interested parties refer to, *inter alia*, producers, exporters, importers, governments of the exporting country or region, domestic producers of similar products (Articles 4 and 9, Rules on Information Access and Disclosure in Industry Injury Investigations, MOFCOM Decree 19, 2006).

[59] If the authorities consider that it is not appropriate to publish certain relevant facts 30 days before making a final decision, MOFCOM is required to publish such information, "within a reasonable time" before the final decision is made.

[60] 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. Provisional measures may not be applied within 60 days from the date of publication of the decision to initiate the investigation.

58. During the investigation period, the exporter may offer price undertakings to MOFCOM and MOFCOM can suggest price undertakings to an exporter: if the revised price is acceptable, MOFCOM may suspend or terminate the anti-dumping investigation in the interest of the public.[61] If MOFCOM does not accept the revised price, it must provide the reasons to the exporter. Price undertakings cannot be sought or accepted unless MOFCOM has made a preliminary determination on the causal link between dumping and the industry injury. A suspended/terminated investigation can be resumed if the exporter violates the price undertaking, or if MOFCOM considers it necessary for other reasons.

59. Final measures (i.e., anti-dumping duties) are for five years, and may be extended following a review. The decision to levy anti-dumping duties is made by the Tariff Commission of the State Council, based on suggestions made by MOFCOM. Any review conducted by MOFCOM, except the "new shipper" review[62], must be concluded within 12 months from the date of the decision to initiate the review. The new shipper review must be concluded within nine months.

60. If any party is not satisfied with a MOFCOM decision, the case may be reviewed under the Administrative Reconsideration Law. Alternatively, an appeal may be made to the Court; procedures for these 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.[63] Since 2005, two appeals have been made to the authorities; MOFCOM's decision was maintained in one case and revoked in the other.[64]

61. Between 1 January 2005 and 30 June 2007, China initiated 39 new anti-dumping investigations. Most of the cases initiated involved imports from Japan (9 cases), Chinese Taipei (7), the European Communities (4), the Republic of Korea (4), Singapore (4), and the United States (4). The majority (27 out of 39 cases) concerned chemicals and chemical products. As at 30 June 2007, among the 24 investigations initiated in 2005, final measures had been adopted in 13 cases; and among the 11 investigations initiated in 2006, final measures had been adopted in 3 cases (Chart III.4).

62. MOFCOM’s Provisions on Responding to Anti-dumping Cases Relating to Export Products entered into force in August 2006. Under the provisions, MOFCOM must promptly publish relevant information relating to investigations of or responses to anti-dumping cases, and the local counterparts of MOFCOM must immediately inform relevant enterprises of such information.

Countervailing measures

63. Countervailing measures may be taken under the provisions of the Foreign Trade Law and the Regulations on Countervailing Measures. The institutional and procedural framework on countervailing measures has remained largely unchanged since China's previous Review. China has not taken any countervailing actions since its accession to the WTO.

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[61] The revised price is acceptable if the level of the price increase under a price undertaking is equivalent to the dumping margin established in the preliminary determination.

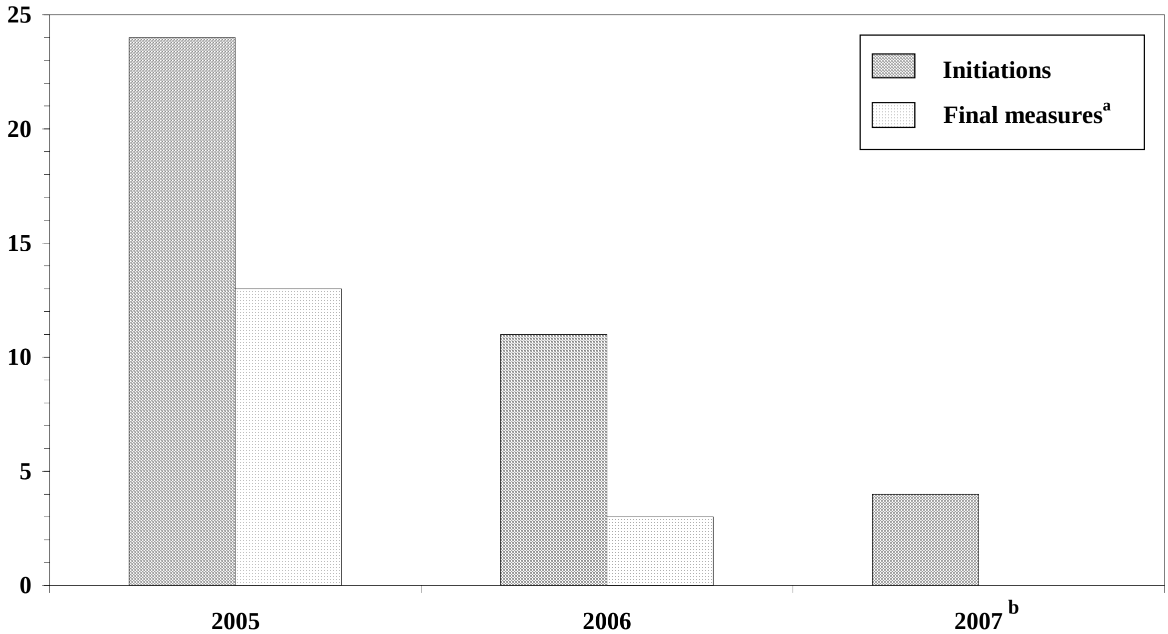
[62] A "new shipper" review involves the determination of an individual margin of dumping for an exporter or producer that did not export the product during the investigation, provided that they are not related to any of the producers or exporters subject to the measures.

[63] WTO document G/ADP/N/1/CHN/2/Suppl.5, 11 January 2007.

[64] Both appeals were made by Japan, with respect to unbleached kraft linerboard case, and the sunset review for stainless steel cold-rolled sheets case.

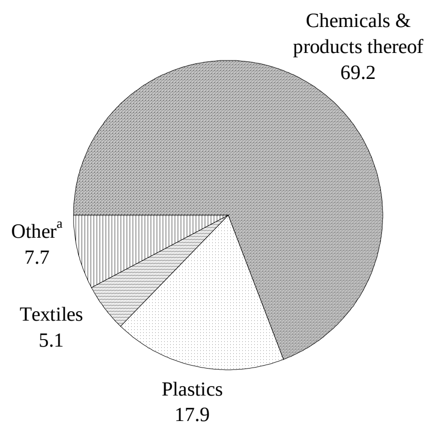
Chart III.4
Anti-dumping cases, 1 January 2005 to 30 June 2007

(a) By number of initiations and final measures

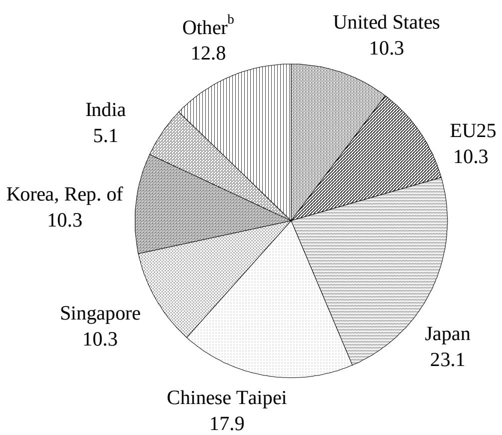


a Final measures for the reported initiations.
b Up to 30 June 2007 only.

(b) Initiations by product
Per cent



(c) Initiations by origin
Per cent



a Potato starch, paper for electrolytic capacitor and compact disk, with one case each.
b Indonesia, Malaysia, Russia, Saudi Arabia, and South Africa, with one case each.

***Source*: Notifications to the WTO.**

(b) Safeguards

64. Safeguard actions may be taken under the Foreign Trade Law and the Regulations on Safeguards. The institutional and procedural framework on safeguard measures is unchanged since the previous Review. Safeguard measures are applied on imports irrespective of their source. Since 2005, China has not taken any safeguard actions. Appeals cannot be made against safeguard decisions taken by the authorities.

65. China's Protocol of Accession to the WTO specifies that transitional product-specific safeguard measures may be adopted by WTO Members against their imports from China.[65] Since 2005, five provisional safeguard measures and one final measure have been adopted. Products covered are mainly: textiles and clothing, ceramic tiles, float glass, and polyvinyl chloride (PVC).[66]

(viii) Standards and other technical requirements

(a) Standards, certification, and accreditation

Standards

66. Legislation on standards includes mainly the Standardization Law and the Regulations for the Implementation of the Standardization Law. The Standardization Administration of China (SAC), under the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) administers standardization work in China.[67]

67. China has been gradually increasing alignment of its national standards with international norms. Currently, 46.4% of national standards have been aligned, up from 45.9% in 2005; the authorities aim to align 85% by 2010. To promote international alignment, the SAC has signed agreements on standards cooperation with Denmark, Germany, New Zealand, and the United States.

68. Between April 2004 and September 2005, China reviewed all its national standards (around 21,000). It was decided that 2,513 (11.6%) standards would be abolished, and 9,536 (44.2%) would be revised by 2008.[68] With the development of the economy, the number of national standards increased to 21,410 at the end 2006.

69. According to the authorities, SAC publishes a catalogue that prioritizes the products for which standards are to be aligned with international ones. However, the criteria used in listing products were not provided to the Secretariat. The alignment rate for the products listed are much higher than those that are not. For example, the alignment rates with international standards are high in, *inter alia*, cables and cords (100%), capacitors as components (100%), measuring instruments (100%), low voltage and high power switching equipment (100%), electronics and entertainment

[65] WTO document WT/L/432, 23 November 2001. Application of this section of the Protocol is to be terminated 12 years after the date of China's accession to the WTO.

[66] WTO documents G/SG/N/16/COL/1, 3 October 2005; G/SG/N/16/COL/2, 3 October 2005; G/SG/N/16/COL/3, 23 February 2006; G/SG/N/16/TUR/1/Suppl.1, 24 April 2006; G/SG/N/16/TUR/2, 21 August 2006; and G/SG/N/16/TUR/3, 21 August 2006.

[67] The main responsibilities of SAC include: to formulate and implement laws and regulations as well as policies and development strategies for standards; to develop and revise national standards, including their examination, approval, and publication; to manage and guide scientific research, and provide education and training on standardization; to represent China in international and regional standardization organizations; and to carry out other work assigned by the AQSIQ (SAC online information. Viewed at: http://www.sac.gov.cn/templet/english/ [18 January 2008]).

[68] WTO document WT/TPR/M/161/Add.3, 16 January 2007, p. 39.

(100%), lighting (99%). However, the alignment rate is only 1% for safety transformers and similar equipment, 29% for portable tools, and 30% for electrical equipment for medical use.[69]

70. In addition to national standards, which are developed for technical requirements that need to be adopted nationally, there are also sectoral, local, and enterprise standards.[70] In each of the national, sectoral, and local standards categories, there are voluntary and mandatory standards. Around 14.4% of national standards are currently mandatory (compared with 14.6% in 2005) (Table III.4).

Table III.4
China's standards, 2002-06

	2002	2003	2004	2005	2006
National standards	20,206	20,906	21,342	20,688	21,410
Equivalent to ISO/IEC standards (%)	31.7	31.9	32.0	34.2	34.8
Equivalent to international standards (%)	44.2	44.2	44.0	45.9	46.4
Mandatory (%)[a]	13.8	..	..	14.6	14.4
Voluntary (%)	86.2	..	..	85.4	85.6
Sectoral standards	25,573	27,284	29,131	31,348	33,552
Mandatory (%)[a]	17.1	..	..	15.6	15.2
Voluntary (%)	82.9	..	..	84.4	84.8
Local standards	12,204	12,877	13,166	16,005	18,128
Mandatory (%)[a]	29.5	..	..	20.7	19.7
Voluntary (%)	70.5	..	..	79.3	80.3
Enterprise standards	1,051,432	1,178,083	1,320,800	1,340,679	1,243,238
National advisory technical documents	48	54	62	76	95

.. Not available.

a Mandatory standards are technical regulations.

Source: Data provided by the authorities.

71. There has been no change to the process of developing new standards or revising old ones. In areas where technology is changing fast and standards need to be developed rapidly, national advisory technical documents may be developed. The process of developing these documents is the same as that for developing standards, but their review period is within three years, two years shorter than that for standards. Hence, national advisory technical documents are more likely to reflect the fast changing technology.

72. Concerning standards for automobiles, China is a Member of the UNECE 1998 Agreement, and is considering joining the 1958 Agreement at "a proper time in the future". China does not directly implement UNECE standards; instead, some technical content of the UNECE is incorporated into China's own compulsory certification standards.

[69] APEC (2006). For electrical equipment for medical use, it would appear that local authorities have been setting local standards, some of which may deviate from international norms (European Union Chamber of Commerce in China (2007), p. 160).

[70] Sectoral standards are developed when there are no national standards available, but unified technical requirements are needed in a certain professional field at the national level. Local standards may be developed where neither national nor sectoral standards are available, but unified requirements for safety and hygiene of industrial products are needed within a local area. Once equivalent national standards are developed, they replace these local or sectoral standards. Further, there are also enterprise standards, which may be developed within an enterprise when national, sectoral or local standards are not available. However, an enterprise is encouraged to adopt national, sectoral, or local standards if they are available.

73. Enforcement of standards needs to be improved, particularly when this also involves IPR infringement. As technical regulations are not followed, counterfeit products, linked with inferior quality, could have a significant negative effect on the health of humans, animals and plants, and the environment.

Food standards

74. The SAC administers China's food standards work in general, while relevant departments under the State Council are in charge of various aspects of specific food standards. The Ministry of Agriculture is in charge of supervising the planting, harvesting, and processing of agricultural products, the Ministry of Health for hygiene related issues, the State Administration of Industry and Commerce (SAIC) for food sold in markets, the AQSIQ for the production, processing, and export of food, and the State Food and Drug Administration (SFDA) for coordinating, and investigating serious food-safety-related accidents. China has promulgated over 1,800 national standards concerning food safety, and more than 2,900 sectoral standards for the food industry.

75. China started to implement the Hazard-free Food Action Plan from 2001, to address the issues of, *inter alia*, toxic pesticides residues in vegetables, and violations of residue standards. Also from 2001, the food quality and safety market access system began, under which all food processing enterprises are required to apply for permits from the competent authorities for quality inspection. To issue a permit, factors taken into consideration include national standards. In addition, food products, as well as the site where production occurs, must undergo strict inspection. Food-producing enterprises also conduct inspections after food products leave the factory. The competent quality inspection authorities are to supervise enterprises' routine production and conduct random sampling of products in the markets.

76. Food safety is partly dependent on the state of the environment; pollution of soil and rivers, for example, tends to be detrimental to the quality of food. The authorities state that, to ensure food safety, the Government gives priority to the root of the production chain: for example, the Government has strengthened monitoring of soil and irrigating water in major crop producing areas. The State Council also issued an Eleventh Five-Year Plan on Food and Drug Safety in April 2007, whose targets include, *inter alia*, covering 90% of food in a safety monitoring system by 2010.[71]

Certification and accreditation

77. Certification and accreditation contribute an estimated average of 0.671% of GDP.[72] China’s Compulsory Product Certification System and the China Compulsory Certification (CCC) mark are administered by the Certification and Accreditation Administration of China (CNCA) under AQSIQ. Products requiring the CCC mark are listed in a Catalogue of Products Subject to Compulsory Certification. They cover 22 groups, consisting of 159 subcategories (19 groups and 132 subcategories in 2003), and include, *inter alia*, household electrical appliances, motor vehicles and safety parts and accessories, electric tools, and audio and video apparatus.[73] Products listed in the

[71] Central Government online information. Viewed at: http://www.gov.cn/zwgk/2007-06/05/content_637391.htm (in Chinese) [8 February 2008].

[72] Central Government online information. Viewed at: http://www.gov.cn/gzdt/2008-01/14/content_857361.htm (in Chinese) [11 February 2008].

[73] CNCA online information. Viewed at: http://www.cnca.gov.cn/cnca/rdht/qzxcprz/rzml/images/20070123/994.htm (in Chinese) [11 February 2008]. New categories added since 2003 included: safety parts and accessories of motor vehicles and motor cycles, some safety protection products, home decoration and remodelling products, and toys.

catalogue must not be marketed or imported without CCC marks.[74] A random conformity sampling test is conducted on imports that have already acquired CCC.

78. Products exempted from CCC are listed in CNCA Announcement No. 3, of 2005[75], and include: goods for personal use by diplomatic staff; goods for commercial exhibition (but not for marketing in China); and products for the purpose of research and conducting tests. In addition, spare parts and components listed in the catalogue are exempt from separate CCC if incorporated in manufactured products; however, if spare parts and components listed in the catalogue are sold separately, the component manufacturer must apply for the CCC mark.[76] For these exempted products, a Special Exempt Approval is required.[77] However, exemption from CCC does not mean exemption from import inspection.

79. The procedures for obtaining a CCC mark include application, type testing, initial factory inspection, evaluation of certification results, approval of certification, and follow-up inspection.[78] Applications for CCC marks must be made to designated certification bodies (DCBs). At end-March 2007, there were 180 DCBs (172 in 2005), 34 of which were foreign-invested joint ventures established in China; another three were wholly foreign invested.[79] CNCA also accepts certification, test, and examination results of foreign certification and testing bodies, through the multilateral recognition system, bilateral cooperation agreements or memoranda of understanding.[80]

80. If a product conforms to the basic requirements of the relevant standard, an applicant must send samples to an accredited testing laboratory (ATL), authorized by the CNCA for type testing. At end 2006, there were 146 ATLs approved by CNCA, up from 124 in 2005. Each ATL is authorized to conduct testing for specific products, and at least one follow-up inspection is conducted every 12 months. Test results are sent to the relevant DCB, which issues a CCC to the manufacturer if the results meet the requirements. The manufacturer may purchase the CCC mark labels from the CCC Mark Service Centre.

81. The China Quality Certification Centre (CQC) is responsible for the CQC voluntary product certification system (the CQC mark), covering around 500 categories of products that are not covered under the CCC mark. CQC applies equally to imported and domestically produced products.

82. As of 2007, China is formulating a food certification and accreditation system. Certification categories include certification of feeds, good agricultural practices (GAP), hazard-free agricultural products, organic products, food quality, and the hazard analysis and critical control points (HACCP)

[74] Although wireless LAN products are included in the catalogue, the requirement to obtain CCC mark is currently suspended.

[75] CNCA online information. Viewed at: http://www.cnca.gov.cn/cnca/zwxx/ggxx/4003.shtml (in Chinese) [11 February 2008].

[76] WTO document G/TBT/W/237, 13 November 2003.

[77] See WTO (2006) for details.

[78] WTO document G/TBT/W/237, 13 November 2003.

[79] By end 2006, there were also 14 accredited certification bodies (ACBs) (up from 11 in 2005), each of which has been authorized to cover one or more of the 159 categories of products requiring a CCC mark (CNCA online information. Viewed at: http://www.cnca.gov.cn/cnca/rdht/qzxcprz/jcjggljg/images/20070123/1000.htm (in Chinese) [11 February 2008]). The authorities state that ACBs are approved by certification authorities (including CNCA) to conduct all types of certification, while the DCB is authorized by the CNCA to conduct CCC certification specifically.

[80] The IECEE-CB multilateral recognition system recognizes 58 foreign certification bodies and more than 200 foreign testing laboratories. Their certification, testing, and examination results are accepted by the CNCA.

management system. China has also established a number of food inspection and testing institutions, to set up a nationwide food safety inspection and testing framework.[81]

International cooperation

83. China is an active member of many international standard-setting bodies[82], and participates in some APEC mutual recognition agreements (MRAs) of conformity assessment.[83] AQSIQ, on behalf of the Chinese Government, has signed some intergovernmental agreements on cooperation in the field of conformity assessments. China has also been participating actively in regional and international MRAs.[84]

84. China has established the national accreditation system for certification and inspection bodies, and laboratories in accordance with the ISO17020, ISO17021, and ISO17025 standards. The China National Accreditation Service (CNAS) is also accredited by QS9000 in cooperation with AIAG.

(b) Sanitary and phytosanitary measures (SPS)

85. China's current legislation related to its SPS regime includes: the Law on the Entry and Exit of Animals and Plant Quarantine, the Food Hygiene Law, the Law on Animal Disease Prevention, the Law on Import and Export Commodity Inspection, the Law on Frontier Health and Quarantine, as well as accompanying implementing regulations and rules. MOFCOM is in charge of submitting notifications regarding SPS measures to the WTO, and the AQSIQ is the Enquiry Point under paragraph 3 of Annex B of the SPS Agreement.

86. China's quarantine system has remained largely unchanged during the review period. AQSIQ, through its 35 local level Inspection and Quarantine Bureau (CIQs), has been in charge of entry/exit inspection as well as quarantine.[85]

87. AQSIQ formulates a Catalogue of Entry-Exit Commodities Subject to Inspection and Quarantine, and revises it on the basis of "actual need".[86] Entry/exit inspection (and quarantine) is also required for some products not listed in the catalogue, but found to have unexpected problems, or

[81] State Council Information Office (2007).

[82] These include the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), and the Pacific Area Standards Congress (PASC).

[83] These include the APEC Umbrella Arrangement for Mutual Recognition of Conformity Assessment of Foods and Food Products (APEC Food MRA); the APEC MRA on Conformity Assessment of Electrical and Electronic Equipment (APEC EE MRA); the APEC MRA for Conformity assessment of Telecommunications Equipment (APEC Tel MRA), and the APEC Arrangement for the Exchange of Information on Toy Safety.

[84] These include: the International Laboratory Accreditation Cooperation (ILAC) MRA; the Asia Pacific Laboratory Accreditation Cooperation (APLAC) MRA; the Pacific Accreditation Cooperation (PAC) multilateral MRA pertaining to quality management system; the International Accreditation Forum (IAF) Multilateral Agreement; and the International Auditor and Training Certification Association (IATCA) MRA. China National Accreditation Committee for Laboratories (CNACL) and the Laboratory Accreditation Committee on Import and Export Commodity Inspection of China (CCIBLAC) are both members of ILAC and APLAC.

[85] Other functions of AQSIQ include: quality management, metrology management, food safety, certification and accreditation, and standardization.

[86] Since China's previous Review, there has been only one modification to the catalogue, which added toilet paper, tissue, paper handkerchiefs, napkins, paper sanitary towels, paper diapers, paper cloths, and paper bed sheets.

if specified in import or export contracts.[87] In particular, the Administration Methods for Import and Export Commodities Spot-Check require spot checks on products on grounds of safety, sanitary, and environmental protection, or on products about which consumers constantly complain. There are no geographic restrictions on the source of these imports as long as they meet health and safety requirements under the law.

88. For imports subject to quarantine, importers must submit applications, together with relevant documents, to local CIQ authorities.[88] Animals, plants, and their products also require sanitary or phytosanitary certificates issued by the appropriate authority in the place of origin. AQSIQ is required to issue the "quarantine permit" or notice of refusal within 20 working days of receipt of the application once it is accepted by the local CIQ (except items that need more time for laboratory testing or risk analysis).[89] In practice, the majority of items need more time for inspection, testing, and quarantine evaluation. If the procedure takes more than 20 working days, the authorities must inform the applicant of the "detailed permission time" in writing. The permit, if issued, is valid for six months, irrespective of the calendar year. In addition, the applicant must reapply for the permit: if the quantity shipped exceeds by 5% the quantity indicated in the permit; if the species indicated in the permit are altered; or if there is an alteration of the exporting country or region, entry port, designated port, or transport routes. Permits must not be transferred or sold.

89. Exports of animals and plants and their products listed in the Catalogue are subject to similar quarantine requirements. Exporters must apply to CIQs at the port of export for quarantine approval before the export of the goods. Goods failing to meet the quarantine requirements are not allowed to leave the country.

90. Certain imports and exports can be exempted from certain quarantine requirements as prescribed by the Measures for Import and Export Commodity Inspection Exemption.[90] If approved by AQSIQ, commodities listed in the Catalogue of Entry-Exit Commodities Subject to Inspection and Quarantine can be exempt from certain quarantine requirements. Applications can be made by importers, exporters, or manufacturers. The products must meet specific requirements; for example, have their own brand names and have a leading position in the industry in their country/region of origin in terms of product ranking and quality; must enjoy a "good reputation" in the international market, with no quality defects or claims; and the product inspection pass rate must be 100% for the past three consecutive years. Food, animals and plants and their products; dangerous goods and their packaging; products with a highly variable quality; and bulk goods (such as mineral ores) are not eligible for exemption.

91. AQSIQ is in charge of import and export SPS related issues. Since the previous Review, AQSIQ has signed MOUs on SPS cooperation with agencies in the European Communities, the United States, and the Philippines. China is a member of the World Organization for Animal Health (OIE); it became a member of the Codex Alimentarius Commission in 1983, and joined the International Plant Protection Convention in 2005.

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[87] TDC online information. Viewed at: http://www.tdctrade.com/chinaguide/3-1.htm [11 February 2008].

[88] The documents include the registration document issued by the AQSIQ, the business certificate issued by SAIC, the trading rights document issued by MOFCOM, as well as evidence of storage facilities for meat, and other documents required by CIQ.

[89] AQSIQ online information. Viewed at: http://www.aqsiq.gov.cn/bsdt/jyjy/jjdzwyxspjysp4 (in Chinese) [11 February 2008].

[90] AQSIQ online information. Viewed at: http://jyjgs.aqsiq.gov.cn/wjgg/jlgg/200610/t20061026_6776.htm (in Chinese) [11 February 2008].

92. Under the Implementing Regulations on the Safety of Import of Agricultural Genetically Modified Organisms, issued by the Ministry of Agriculture, imports of GMOs and their products are divided into three categories: for research and testing; for production; and for raw materials for processing. In all three categories, importers need to apply for approval from the Ministry of Agriculture, which is in charge of evaluation and issuing the approval document. The Ministry must decide whether to approve within 270 days after accepting the application, and notify the applicant of its decision.[91] In addition, AQSIQ, together with its local CIQs, is responsible for managing the import and export of GMOs, as well as testing and checking conformity with the GMOs' safety certificates issued by the Ministry.

(c) Labelling

93. Labelling requirements are maintained under the Standardization Law, the Food Hygiene Law, and the Law on Product Quality. Labels must be written in Chinese and state, *inter alia*, name and trade mark of the product, type of product, the manufacturer's name and address, place of origin, usage instructions, batch number, and the relevant standard code.

94. The SAC is in charge of food labelling. For food, the label must also include ingredients in descending order by weight or volume, net weight and solid content, date of manufacture, and best before or expiry date. Until April 2006, food importers had to submit the certificates for sale issued by the authorities in the manufacturing country or region when applying for Chinese-language labels for the imported food.[92] Examination of labelling of imported and exported food is now conducted together with quarantine procedures, and the certificates for sale and prior approval by the AQSIQ are no longer required.[93]

95. Apart from a few sectors, China's labelling requirement is in general product-based (rather than sector-based).[94] Exceptions include some sector-specific requirement for food, pharmaceuticals, cosmetics, and GMOs. The AQSIQ released its draft Provisions of the Contents of Food Labelling in June 2007, and is soliciting public opinion. The labelling requirement for pharmaceuticals is specified under the Rules on Administration of Instructions and Labelling for Drugs, issued by State Food and Drug Administration (SFDA) and came into effect on 1 June 2006.[95] The labelling requirement for Chinese medicines is provided in three separate documents issued by SFDA. The Ministry of Health is soliciting opinions on the Rules on the Administration of Labelling for Cosmetics, drafted in October 2006, under which labelling for cosmetics sold in China needs to be in Chinese. This requirement does not apply to cosmetics manufactured in China for export only.

96. In addition, based on the Regulations on the Safety Administration of Agricultural GMOs (State Council, 23 May 2001), the Ministry of Agriculture (MoA) issued the Rules on Administration of Labelling of Agricultural GMOs (revised on 1 July 2004). Under the rules, "GMO" should be specified clearly in the labelling for GMO and products processed using GMOs. The labelling should be in Chinese. Without proper labelling, GMOs and their products cannot be imported or sold in

[91] CAFTE online information. Viewed at: http://www.cafte.gov.cn/gjmyxy/falv/1671.asp (in Chinese) [12 February 2008].

[92] WTO document G/TBT/W/237, 13 November 2003.

[93] The removal of the prior approval requirement reportedly led to some confusion at the local level as local CIQ staff have a different understanding of some national standards (European Union Chamber of Commerce in China (2007), p. 152).

[94] WTO document WT/TPR/M/161/Add.2, 11 September 2006, p. 49.

[95] Central Government online information. Viewed at: http://www.gov.cn/ziliao/flfg/2006-03/16/content_228465.htm (in Chinese) [12 February 2008].

China. The MoA is in charge of the labelling issues for GMOs and their products, and the AQSIQ is responsible for labelling inspection at the border for imported GMOs.

(ix) Government procurement

(a) General framework

97. The Government Procurement Law prescribes the principles underlying government procurement, and regulates such activities conducted in China using fiscal funds and by government departments, institutions, and public organizations at all levels. The Law does not apply to SOEs, which may be performing non-commercial or quasi-governmental functions.

98. The total value of government procurement has been increasing since the previous review, and reached Y 368.2 billion in 2006 (compared with Y 165.9 billion in 2003); it accounted for about 1.8% of GDP, much below the international average (around 10-15%).[96] Local government entities continue to play a major role, accounting for more than 80% of the total value of government procurement in China (Table III.5).

Table III.5
Government procurement of goods, construction projects, and services, 2004-06
(Y billion)

	2004	2005	2006
TOTAL	**213.6**	**292.8**	**368.2**
Goods	104.9	140.9	164.7
Central government entities	14.9	23.5	22.2
Local government entities	89.9	117.4	142.5
Construction and engineering services	94.8	132.3	176.4
Central government entities	12.7	14.3	20.7
Local government entities	82.2	118.0	155.7
Other services	13.9	19.6	27.1
Central government entities	1.7	3.0	4.3
Local government entities	12.1	16.6	22.8

Source: Data provided by the authorities.

99. China has not signed any bilateral, regional, or multilateral agreement on government procurement.[97] It is an observer to the WTO Government Procurement Agreement (GPA), and submitted its offer to join the GPA, together with its initial Appendix I offer of coverage, on 28 December 2007.[98] China's government procurement framework is designed for a "closed economy"[99], with a major target to facilitate the achievement of state goals for economic and social development, including protecting the environment, assisting underdeveloped or ethnic minority

[96] The proportion is even higher in some developing countries (CCPG online information. Viewed at: http://www.ccgp.gov.cn/web/cgf/zongze5.asp (in Chinese) [12 February 2008]).

[97] CCGP online information. Viewed at: http://www.ccgp.gov.cn/web/cgf/zongze3.asp (in Chinese) [12 February 2008].

[98] WTO document GPA/93, 14 January 2008.

[99] CCGP online information. Viewed at: http://www.ccgp.gov.cn/web/cgf/zongze3.asp (in Chinese) [12 February 2008].

areas, and promoting SMEs.[100] Nonetheless, the Law does not specify measures to be taken to promote the development of SMEs in the government procurement framework.

100. Article 10 of the Government Procurement Law provides that the Government shall procure domestic goods, projects, and services. However, there are no provisions on local content, or rules of origin, under the government procurement framework, to determine whether a product is produced domestically. Purchasing from foreign suppliers may be allowed under exceptional circumstances; e.g. when the goods, projects, and services required are unavailable or unavailable on reasonable commercial terms, in China; the goods, projects and services are procured for use outside China.[101] Further, procurement of imports need examination and approval from the Ministry of Finance, or its corresponding departments at the local level.[102] However, in practice, procurement from foreign suppliers occurs routinely for products such as cars, copying machines, and computers, although there are no data on the annual value or proportion of government procurement from foreign suppliers.

101. The Government Procurement Law applies to procurement of goods, projects, and services listed in a Centralized Procurement Catalogue. The catalogue is issued by the Ministry of Finance, or provincial bureau of finance, and is revised from time to time. For items listed in the catalogue, purchase must be carried out by centralized procurement agencies, which are non-profit legal persons. This "centralized" procurement accounted for more than 80% of government procurement in 2006 (Table III.6). "Decentralized" procurement refers to the 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.[103] Decentralized purchasing can be carried out by the procuring agency itself, or through some centralized procurement agencies.

Table III.6
Government procurement by procurement entities, 2004-06
(Y billion)

Year	Total	Centralized procurement	Decentralized procurement
2004	213.6	172.8	40.8
2005	292.8	235.9	56.9
2006	368.2	298.6	69.6

Source: Data provided by the authorities.

(b) Procurement methods

102. Procurement of projects (construction and engineering) is regulated by both the Government Procurement Law, and the Law on Bid Invitation and Bidding or Tendering. For goods and services, the following methods can be used: public tendering, invited bidding, competitive negotiation,

[100] Article 9 of the Government Procurement Law.
[101] Thus, in principle, procuring from foreign suppliers when domestic produced goods are available is illegal and subject to punishment.
[102] Ministry of Finance issued Measures on Administration of Government Procurement of Imports on 27 December 2007. Under the measures, the procurement of scientific equipment or technology, which is subject to import restriction, needs opinions from the Ministry of Science and Technology, or the NDRC.
[103] 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.

single-source procurement, request for quotations, and other methods confirmed by the supervising department under the State Council, i.e. the Ministry of Finance.[104]

103. Public tendering involves publishing a request for tender, and accepting submissions from any potential suppliers (domestic) who satisfy conditions for participation.[105] Public tendering accounted for 67.6% of total government procurement value in 2006 (Table III.7). It is the required method for procurement of items over the prescribed thresholds; the authorities state that in 2007, the thresholds for central government procurement through public tendering were Y 1.2 million for goods and services and Y 2 million for construction projects, respectively (same as in 2004).

Table III.7
Government procurement by procurement method, 2004-06
(Y billion)

Year	Procurement method					
	Total	Public tendering	Invitation for tendering	Competition negotiation	Request for quotations	Single-source procurement
2004	213.6	127.2	23.4	22.6	28.1	12.3
2005	292.8	191.7	22.7	31.1	33.3	14.0
2006	368.2	248.9	24.2	42.2	36.7	16.2

Source: Data provided by the authorities.

(c) Other provisions

104. Article 11 of the Government Procurement Law, and the Rules on Information Openness of Government Procurement[106], both provide that procuring entities must announce government procurement and bidding information in media designated by the Ministry of Finance in a timely and standard manner.[107]

105. Under Chapter 6 of the Law, suppliers who believe that they have been or are being unfairly excluded from procurement processes or treated in a discriminatory way can complain to the procuring agency, followed by appeal to the Government Procurement Division of the Ministry of

[104] Invited tenders may be used for goods or services that have special characteristics so that they have to be procured from a limited number of suppliers or if the cost of purchasing through public tenders is too high as a proportion of the total value of the procurement. In this case, the procurement agency must invite at least three qualified suppliers to submit bids. Competitive negotiations may be authorized when: a public tender has failed to result in the award of a contract; the goods or services are technologically complex or have other special characteristics; the procurement is to be conducted urgently; or it is not possible to calculate the total price in advance. Single source procurement is used: when there is only one supplier; in case of an emergency; and for purposes of maintaining uniformity or complementarities of services procured previously, provided that the total amount of the additional procurement does not exceed 10% of the value of the original contract. A request for quotation can be made when: the specifications and standards of the goods are uniform; there is an abundant stock of existing goods; and fluctuations in prices are small (WTO (2006)).

[105] CCGP online information states that, suppliers specified under the Law are domestic suppliers (Viewed at: http://www.ccgp.gov.cn/web/cgf/dangshiren8.asp). Other requirements for potential suppliers include: having sound financial and accounting systems, having the equipment and professional expertise to perform contracts, having a clean record of paying taxes, and not having committed any major breaches of law in the business operation in the three years prior to participation in the procurement.

[106] The Rules on Information Openness of Government Procurement were issued by the Ministry of Finance in August 2004 and entered into force on 11 September 2004.

[107] The official government procurement website is www.ccgp.gov.cn. Other designated media include the *China Government Procurement Magazine*, which is circulated nationally, and the *China Fiscal and Economics News*, a newspaper circulated nationally.

Finance, or further file a lawsuit to the court. The authorities state that in 2006, of the 760 appeals made, 629 were accepted for processing; of these, decisions were taken on 352 cases, 183 cases were rejected, and 94 were withdrawn.

106. The authorities are currently seeking opinions on the Draft Implementation Measures on Government Procurement of Software; however, there is no specific timetable to publish the measures. On the other hand, the Ministry of Finance and the State Environmental Protection Administration issued Opinions on the Government Procurement of Products with Environmental Protection Marks on 24 October 2006. Under the Opinions, preference is given to products with environmental protection marks when conducting government procurement activities.[108]

(x) Import-related financing

107. In 2006, the Export-Import Bank of China (EXIM Bank) started to offer import credit to importers in China, mainly to facilitate imports of key technologies and equipment, or petroleum, natural gas, and other mineral products in the form of large-volume and long-term contracts.

(3) MEASURES DIRECTLY AFFECTING EXPORTS

(i) Procedures

(a) Customs procedures

108. China's customs procedures with regard to exports have remained largely unchanged since its previous Trade Policy Review. Export declaration procedures are similar to those for imports (section (2)(i)). Exporters must register with Customs before making customs declarations, and export declarations must be made after the goods arrive at the customs surveillance zone, and 24 hours before loading, unless otherwise approved by Customs. Licences are required for exports subject to restrictions (section (v) below).

109. Exports of animals and plants and their products are subject to similar SPS requirements as imports and to the requirements of the importing country. Goods that do not meet the SPS requirements are not allowed to leave the country. The Catalogue of Entry-Exit Commodities Subject to Inspection and Quarantine is issued annually by AQSIQ; exports of certain products in the catalogue, such as food and goods affecting health, need to be registered with relevant government agencies.[109]

(b) Preshipment inspection

110. China does not require preshipment inspection (PSI) for exports; its PSI agencies engage in preshipment export inspection for its trading partners that require PSI.

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[108] Among all the products with environmental protection marks, the Ministry of Finance (MOF) and SEPA listed certain products in a catalogue, covering 14 categories, around 1,000 types of products. The catalogue is revised regularly by MOF and SEPA. The Opinions became effective on 1 January 2007 for governments at and above provincial level, and was effective nationally on 1 January 2008.

[109] Article 31 of the Implementing Regulation of the Law on Import and Export Commodity Inspection.

(ii) Export taxes

111. Export taxes are levied at statutory rates in relation to f.o.b. values and on an MFN basis.[110] In addition, lower interim rates may be applied, and also on an MFN basis. The Tariff Commission under the State Council sets and publishes the statutory rates annually and revises the list of items subject to interim duty together with the rates of duty.

112. In 2007, statutory export taxes applied to 88 tariff lines at the HS 8-digit level, including metals, phosphorous, benzene, and eel; 64 of these lines were subject to lower interim export duties.[111] In the same year, interim export duties applied to an additional 110 lines at the HS 8-digit level, which were not subject to statutory export taxes. They included: some mineral products; iron, copper, nickel, and aluminium ores; certain chemical products; as well as iron and steel products. The interim duty rates on 142 tariff lines were increased on 1 June 2007[112], with a view to reducing exports of products that are highly energy consuming and polluting, as well as those consuming large amounts of raw materials. On 1 January 2008, the coverage of interim export duties increased again to include some more steel products; in total, 334 lines (at the HS 8-digit level and including 4 "ex-" lines) are now subject to interim export duties. In addition to these products, exports of grain, rice, maize, and soybeans are subject to interim export duties, to discourage their export.[113] Though the main objective of these export taxes may be to improve the environment by reducing exports of products considered to be highly energy consuming or polluting, such taxes tend to increase the domestic supply of the products concerned. As a consequence, their domestic prices tend to be lower than would otherwise be the case; thus, export taxes may implicitly assist domestic downstream processing of the products concerned. Not fully rebating VAT on exports of certain products has a similar outcome (see below).

113. Some interim duty rates are zero. According to the authorities, these apply to products that have been subject to interim export duties for one or two decades.

(iii) Tax rebates on exports

114. Under the Interim Regulations on Value-added Tax, a standard 17% VAT rate is levied on goods produced domestically or imported. Some items are subject to a VAT rate of 13%, 6%, and 4%; VAT exemptions may apply to others.

115. VAT and excise tax may be rebated on exports.[114] However, VAT rebate rates on exports 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 an assistance to downstream processing

[110] In the Annex 6 of its Protocol of Accession, China listed 84 lines at the HS 8-digit level at statutory export tax rates.

[111] The 24 lines at the HS eight-digit level, which were subject to statutory export taxes only, included some lead ores and concentrates, tungsten ores and concentrates, tantalum/niobium materials, crude antimony, some phosphorous, some raw hides and skins of goat, some pig iron, and some waste and scrapped iron and steel products.

[112] Central Government online information. Viewed at: http://English.gov.cn/2007-05/22/content_621737.htm [12 February 2008]; http://www.gov.cn/jrzg/2007-05/22/content_621833.htm (in Chinese) [12 February 2008]; and http://www.gov.cn/zfjg/content_622184.htm (in Chinese) [12 February 2008]. Export taxes on more than 80 steel products were increased, and started to be applied to some primary commodities.

[113] MoA online information. Viewed at: http://www.agri.gov.cn/gndt/t20080102_947082.htm (in Chinese). [8 February 2008] It would appear that such interim export duties are not levied on exports to the SARs of Hong Kong and Macao.

[114] Tax rebates for exports are regulated under the Measures on Administration of Tax Rebate (Exemption) for Exports, issued by the State Administration of Taxation.

of the products affected.[115] For example, in 2005 China removed an 8% VAT rebate for exports of primary aluminium and, in addition, imposed a 5% interim export tax.[116] Removal of the VAT rebate together with the imposition of the export tax tends to reduce exports of primary aluminium and thus increase its domestic supply. As a result, the domestic price of primary aluminium tends to be lower than would otherwise be the case; primary aluminium is a major input into aluminium foil (which, upon exportation, qualifies for a VAT rebate of 13% rather than the full rebate of 17%).

116. The VAT rebate rates are adjusted from time to time to, *inter alia*, meet industrial development goals, and control exports of certain products. For example, in September 2006, rebate rates were lowered on, *inter alia*, some steel products, cements, and some textiles, as well as furniture, plastics, and wood products. At the same time, rebate rates were increased: from 13% to 17% for manufacturing equipment, some IT products, and medical equipment and some high-tech products; and from 5% or 11% to 13% for some products using agricultural products as raw materials.[117] On 1 July 2007, China eliminated rebates for some 553 items regarded as highly energy consuming, highly polluting, and consuming large amount of raw materials, and lowered rebate rates for 2,268 lines (HS 8-digit) that the authorities considered prone to trade friction; such items included textiles and steel products.[118] On 20 December 2007, China removed the VAT rebate on exports of 84 agricultural tariff lines, such as wheat, maize, rice, and soybean, with a view to easing inflation. As a consequence, current VAT rebates are: 17%, 13%, 11%, 9%, and 5%. The authorities state that VAT rebates on exports amounted to Y 487.7 billion in 2006 (Y 420 billion in 2004), or about 6.3% of total merchandise exports. In addition, exports of ten items (including peanut kernels, painting, sculpture board, stamps, and stamp tax note) were exempted from paying VAT as of 1 July 2007.

117. For small amounts of exports in border trade in Yunnan province and adjoining areas, the VAT and excise tax rebate rate increases from 70% to 100% of the tax paid if the payment is by bank transfer; it remains at 40% for payment in cash.[119]

118. China reformed its excise taxes in April 2006 (section (4)(i)(b)). Excise taxes on exports are fully rebated. In 2006, excise tax rebates on exports reached Y 934 million, up from Y 716 million in 2005.

(iv) Tax concessions under processing trade

119. China does not grant bonded status for all imports used as inputs for exports under "processing trade". The authorities call the non-granting of bonded status "export prohibition under processing trade". Exports of products "prohibited under processing trade" are allowed if import duties are paid on imported inputs. In 2007, there were 617 such items at the HS 8-digit level,

[115] The authorities do not believe that the difference between the VAT rates and rebates constitutes a levy on exports.

[116] The rebate rate was reduced from 15% to 8% in 2004. In 2006, a 5% export tax on primary aluminium with a purity of 99.95% and above was removed, while the tax on primary aluminium with a purity below 99.95% remained (from 1 November 2006, the rate was increased to 15%). MOFCOM online information, "Aluminium Industry Faces Challenges". Viewed http://eg2.mofcom.gov.cn/aarticle/chinanews/200504/20050400033130.html [14 February 2008].

[117] *Xinhua News* online information. Viewed at: http://news.xinhuanet.com/fortune/2006-09/14/content_5092806.htm (in Chinese) [12 February 2008].

[118] Central Government online information. Viewed at: http://www.gov.cn/xwfb/2007-06/19/content_653538.htm (in Chinese) [8 February 2008].

[119] MOF and SAT order No. 178 of 2004, as of 1 October 2004. Viewed at: http://www.fdi.gov.cn/pub/FDI/zcfg/jck/ck/P020060619703623901098.pdf (in Chinese) [8 February 2008].

compared with 305 in 2004.[120] By increasing the number of goods subject to export prohibition under processing trade, the Government aimed to discourage exports of products using large amounts of raw materials for processing, products with low value added, and products that consume relatively large amounts of energy or are highly polluting.

(v) Export prohibitions, restrictions and licensing

(a) Export prohibitions

120. In 2007, China maintained general export prohibitions on 40 items at the HS 8-digit level (up from 25 items in 2004). Prohibited items include mainly materials relating to State secrets, precious and rare animals and plants (such as horn-cores, bezoars, musk, and wood charcoal).[121] The added lines are mineral products (HS Chapter 25) and some chemicals (HS Chapter 29).

(b) Export quotas and licensing

Overview

121. The Measures for the Administration of Export Commodities Quotas, and the Measures on Invitations to Tender for Export Commodities Quotas contain China's export quota requirements. China maintains both global export quotas and destination-specific quotas. Global quotas are applied regardless of destination. Destination-specific quotas apply to live cattle, live swine, and fowl to be exported to the Hong Kong and Macao SARs. Quota amounts and allocation rules are determined by the NDRC, or MOFCOM. When determining the size of quotas, the authorities consider, *inter alia*: national security, availability of domestic resources for downstream processing, development plans for certain domestic industries, and international and domestic demand. After the exporter obtains a quota, an export licence is issued by MOFCOM.

122. There has been little change in China's export licensing regime since its previous Review.[122] The regime includes automatic and non-automatic export licences, and is regulated by the Administrative Measures on Export Licence for Goods. In addition, MOFCOM and Customs issued the Provisions on Administration of Import and Export Licences for Dual-Purpose Goods and Technologies, effective 1 January 2006[123]; and at end 2006, MOFCOM issued the Provisional Administrative Measures on Automatic Licensing for Exports (Draft) and solicited public opinions on the draft.

123. In 2007, 447 tariff lines at HS 8-digit level were subject to export quotas and licensing administration (316 in 2005 and 319 in 2004). In 2004, the latest year for which data were provided, the value of exports subject to licensing accounted for 4.1% of total exports.

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[120] They include mineral products, chemical products, raw hides and skins, wood and articles of wood, pulp of wood, paper, base metals and articles thereof. Of the 617 tariff lines, 138 were also subject to import prohibition under processing trade (section (2)(iii)(c)).

[121] WTO document WT/ACC/CHN/49, 1 October 2001.

[122] WTO (2006).

[123] Provisions on Administration of Import and Export Licenses for Dual-Purpose Goods and Technologies. Viewed at: http://www.law-lib.com/law/law_view.asp?id=126558 (in Chinese) [8 February 2008].

Export quotas

124. Global export quotas applied to 146 lines at the HS 8-digit level in 2007 (down from 179 lines in 2004). From 1 January 2008, global export quotas are also applied to flours of some grain products.[124] Quotas for five products (rice, maize, cotton, coal, and wheat) are allocated by the NDRC in consultation with MOFCOM; all others are allocated by the MOFCOM.[125] For exports subject to state trading (i.e. rice, maize, cotton and coal), global quotas are first allocated to state-trading enterprises. For all other exports, MOFCOM allocates quotas either directly to enterprises, or to departments at the provincial level, which allocate them to enterprises. When allocating quotas, provincial governments take into account enterprises' export performance, their quota usage, business performance, and production volume in the past three years. Unused quotas must be returned to MOFCOM before 31 October of the year for which they are issued, and cannot be traded.

125. Quotas on certain exports can also be allocated through a bidding process. These include exports: using large amounts of exhaustible natural resources; having a dominant share in the international market; whose overall export amounts are "unlikely to be affected by price fluctuations"; of products that authorities consider may face anti-dumping actions in other countries; and those subject to trade restrictions under bilateral agreements. Unused quotas under the bidding system can be returned to MOFCOM, or transferred between enterprises after examination and approval by tendering offices under MOFCOM.

Export licences

126. For exports subject to non-automatic licensing, as for imports, applicants must obtain an export permit prior to applying for a licence (section (2)(v)(b)). Export permits are granted by different authorities (NDRC, MOFCOM, or the State Environmental Protection Administration), depending on the product.[126] After obtaining the permit, exporters are granted an export licence automatically by MOFCOM or its authorized agencies; the licence is issued within ten working days.

127. China's non-automatic export licensing requirements are implemented mainly to fulfil its obligations under international agreements, such as: Articles XX and XXI of GATT 1994; the Montreal Protocol on Substances that Deplete the Ozone Layer; the Conventions on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction; and the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. MOFCOM and Customs issue and publish the Catalogue of Goods Subject to Export Licence Administration annually. In 2007, ten lines at the HS 8-digit level were subject to export licensing requirements, down from 84 lines in 2006. This difference is because the Provisions on Administration of Import and Export Licences for Dual-Purpose Goods and Technologies require exporters of chemicals that may be used for military purposes, and toxic materials, to obtain a permit and licence from the MOFCOM. Export licences have also been used to reduce exports of certain products: some steel

[124] China Economic Net online information. Viewed at: http://finance.ce.cn/futures/qhgdbd/200801/03/t20080103_12777869.shtml (in Chinese) [8 February 2008].

[125] Mainly wood and articles of wood, mineral fuels and oil, chemicals, and compounds of precious metals.

[126] The Office of Implementing the Convention on the Prohibition of the Development of Chemical Weapons, based in the NDRC, grants permits for chemicals under supervision and control; MOFCOM grants permits for chemicals that may be used for narcotics production, and steel products; and the State Environmental Protection Administration for ozone-depleting substances.

products (83 tariff lines at the HS 8-digit level) have been subject to licensing requirements since 20 May 2007.[127]

128. Unless otherwise specified, an export licence is valid for six months (within one calendar year). The licence for steel products is valid for three months. Licences issued may be: "one licence one customs", requiring the export licence to be declared once at only one customs post; "one lot licence", requiring a separate licence for each batch of goods exported. Licences may not be bought, sold, transferred, or altered.

129. Automatic export licences, which apply largely for statistical purposes, were required for 284 lines (at the HS 8-digit level) in 2007 (40 in 2004).[128] Exporters of these products can obtain a licence from MOFCOM or its authorized agencies if they have the relevant export contracts. Under the MOFCOM draft Administrative Measures on Automatic Licensing for Exports (see above), exports subject to automatic licences would be listed in a MOFCOM catalogue.

Export restrictions on textiles and automobiles

130. Under the memoranda of understanding (MOUs) between China and the European Communities, China and the United States, and China and South Africa[129], growth rates of Chinese textiles and clothing exports are limited; the restrictions on exports to the EC were eliminated at end 2007 and are to be eliminated by the end of 2008 on exports to the United States and South Africa (Chapter IV(4)(ii)).[130]

131. Under MOFCOM's Measures for the Administration of Textiles Exports (Provisional), effective on 18 September 2006[131], a Catalogue of Textiles Products Subject to Interim Export Administration sets out textiles and clothing products subject to export restrictions imposed unilaterally by countries or regions, and those subject to temporary quantitative control under bilateral agreements. To export products in the catalogue, exporters require a "provisional export licence", from the local counterparts of MOFCOM, and a certificate of origin from the relevant agency authorized by AQSIQ. Quotas are allocated either through a bidding system, or based on the

[127] MOFCOM and Customs, Announcement No. 41 of 2007, Promulgating Licence Administration on Export of A Part of Steel. Viewed at: http://english.mofcom.gov.cn/aarticle/policyrelease/domesticpolicy/200705/20070504643194.html [12 February 2008].

[128] Including mainly meat and edible meat offal (31 lines), platinum (14), iron and steel (97), other base metal (39), machinery (12), and vehicles (71).

[129] China signed an MOU with South Africa, which enables South Africa to impose unilateral import restrictions on 31 textiles and apparel products originating in China between 2007 and 2008.

[130] See WTO (2006) for details of the MOUs between China and the EC and China and the United States. The MOUs were signed against the backdrop of Article 242 of China's Working Party Report. Article 242 permits WTO Members to request consultations with China if the Member believes that imports of textiles and apparel products of Chinese origin covered by the ATC are causing market disruption; during the consultation, China will hold exports of the products in question at a level no greater than 7.5% (6% for wool) above the amount entered during the first 12 months or the most recent 14 months preceding the month in which consultations were requested. The restraints established as a result of these consultations will be effective for a year from the date on which consultations were requested unless otherwise agreed. Members cannot use simultaneously measures under this provision and the transitional product-specific safeguard measures under Article 16 of China's Protocol of Accession. Article 242 covers the period up to 2008.

[131] The measures are based on the Interim Measures for the Administration of Textiles Exports, first issued on 19 June 2005, and revised later to become effective 22 September 2005.

exporter's past export performance, and other factors.[132] The licence is valid for six months during each calendar year and is transferable.[133]

132. Notice on Regulating Automobile Exports, issued by MOFCOM, NDRC, Customs, AQSIQ, and CNCA on 31 December 2006, stipulates that exporters of completely built up units (CBUs), including passenger vehicles, business vehicles, chassis, and "components in complete form", must apply for licences from local departments of MOFCOM. Qualified enterprises are included in a "list" issued every year. Enterprises on the list must obtain export licences from MOFCOM, then apply for approval from the AQSIQ before Customs release their exports. Enterprises not on the list cannot export automobiles.

(vi) Measures maintained by importing countries

133. MOFCOM identified major trade barriers for Chinese exports in its annual *Foreign Market Access Report*.[134] The trade barriers identified in the Report remain the same as at the time of China's previous Trade Policy Review.

(vii) State trading

134. State trading is maintained to, *inter alia*, ensure stable domestic supply, avoid drastic price fluctuations in international markets, ensure food safety, and protect exhaustible and non-recyclable natural resources and the environment.[135] In 2007, exports subject to state trading were rice, maize, cotton, coal, crude oil, processed oil, tungsten ore and products, antimony ore and products, silver, and tobacco (Table AIII.3).

135. State trading is undertaken by SOEs and foreign invested enterprises. However, only SOEs can conduct state trading of rice, maize, cotton, crude oil, processed oil, and tobacco exports, while FIEs can export silver, tungsten ore and products, and antimony ore and products.

(viii) Export promotion and marketing assistance

136. China's schemes to promote exports comprise mainly tax concessions, export finance operated by the Export-Import Bank of China (EXIM Bank), export credit insurance by the China Export & Credit Insurance Corporation (SINOSURE), and export fairs.

(a) Tax and non-tax measures

137. The authorities state that China does not provide export subsidies. China notified to the WTO that no export subsidies have been maintained or introduced for agricultural products since 2002.[136]

138. Before the entry into force of the Enterprise Income Tax Law in 2008, preferential tax treatment was provided to certain enterprises to encourage exports. For example, if foreign investors of export-oriented FIEs reinvested their profits to expand production in China, the proportion of

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[132] These are: total export quotas for the product, as determined by MOFCOM; the enterprise's total export value in the previous year, and the enterprise's export value to the country or region imposing quotas on Chinese textile exports; and China's total export value in the previous year, and China's export value to the country or region imposing quotas on Chinese textile exports.

[133] The quotas can be transferred online (http://xk.ec.com.cn), or through MOFCOM's local agencies.

[134] MOFCOM (2007b).

[135] WTO (2006).

[136] WTO documents G/AG/N/CHN/12 (14 September 2007), G/AG/N/CHN/10 (25 October 2006), G/AG/N/CHN/6 (5 April 2005), and G/AG/N/CHN/4 (7 September 2004).

enterprise income tax paid on the reinvested amount was eligible for refund.[137] If in any given year an FIE exported over 70% of the year's production value, it could be eligible for enterprise income tax at half the rate specified in the Income Tax Law for Enterprises with Foreign Investment and Foreign Enterprises; the reduction applied after the income tax holiday period expired. In addition, FIEs established in the special economic zones or economic and technology development zones, or any other FIEs otherwise enjoying an income tax rate of 15%, paid income tax at 10% if the same export requirement was met (section (4)(ii)(b)). These preferences were removed in 2008 (section (4)(i)(c)).

(b) Export finance and insurance

Export-Import Bank of China

139. The Export-Import Bank of China (EXIM Bank), the only policy bank providing export credit, is wholly owned by the Central Government.[138] Its functions cover, *inter alia*, financial support to promote exports of mechanical and electronic products, and high and new technology products, including through export credit, and export buyers' credit. The authorities state that there are no local-content requirements for exporters to apply for loans from the bank. In 2006, export credits provided by the EXIM Bank amounted to Y 102.8 billion, an increase of 25% from the previous year. Of this, 32.9% was for exports of high and new-tech products, and 22.9% for ships and vessels.[139] In the same year, US$2.27 billion was provided as export buyers' credit, an increase of more than 80% from the previous year.[140]

140. The EXIM Bank raises its funds mainly by issuing financial bonds. Data provided by the authorities show that the NPL ratio for the EXIM Bank fell by 1.44 percentage points from 2005, and reached 3.47% at end 2006.

Export & Credit Insurance Corporation

141. The China Export & Credit Insurance Corporation (SINOSURE), the only official export and credit insurance company in China, was set up in 2001 to promote exports, in particular high value-added and high-tech capital goods. SINOSURE is a wholly state-owned company; it implements government policy on export credit insurance, and assumes commercial export credit risks. In 2006, the share of total exports with SINOSURE credit insurance was 3% (same as 2003). According to the authorities, there are no local-content requirements to be eligible for SINOSURE's export credit insurance.

[137] WTO document G/SCM/N/123/CHN, 13 April 2006.

[138] It has ten branches and five representative offices in China, as well as three overseas representative offices (in Johannesburg, Paris, and St. Petersburg) (EXIM Bank online information. Viewed at: http://english.eximbank.gov.cn/profile/introduction.jsp [11 February 2008]).

[139] EXIM Bank (2007).

[140] Export buyers' credit refers to medium- or long-term loans offered to foreign borrowers to support the export of Chinese capital goods, services, and overseas construction projects.

(c) Other export assistance

142. MOFCOM provides online information to help enterprises export.[141] The China Foreign Trade Centre under MOFCOM holds export fairs, including the China Import and Export Fair in Guangzhou twice a year.

143. The International Market Exploration Fund for SMEs is operated by MOFCOM and MOF, to facilitate SMEs' participation in overseas exhibitions, so as to promote their presence in international markets and encourage them to explore new markets.

144. The China Council for the Promotion of International Trade (CCPIT) also helps to promote international trade, by, *inter alia*, establishing contacts with foreign governments, offering various consultation services, and helping enterprises to apply for patents and register trade marks. As a non-profit agency, the CCPIT obtains some financial support from government.

(4) MEASURES AFFECTING PRODUCTION AND TRADE

(i) Taxation and tax incentives

(a) Overview

145. China appears to be a relatively low tax country, with total tax revenue as a percentage of GDP at around 16.5% in 2006 (up from 15.7% of GDP in 2005) (Table III.8). During the period under review, China adopted various tax reforms, including the unification of income tax rates for domestic enterprises and FIEs through the Enterprise Income Tax Law, which entered into force on 1 January 2008. Other major tax reforms include: abolition of the agricultural tax with a view to relieving burdens on farmers; continuation of the pilot project in north-east China to transform the VAT from a production to a consumption-based tax; the increase in the exemption threshold for personal income tax; reform of consumption (excise) tax; the increase in stamp tax on securities transactions (May 2007), and the reduction of tax on interest from bank deposits (August 2007).[142]

146. China's tax legislation and policy-making framework is highly centralized; local governments can only formulate implementing regulations. The Ministry of Finance, together with the State Administration of Taxation (SAT), is responsible for tax policy (including tax reforms), while the SAT is the major tax collection agency.[143] Taxes are classified into central taxes (collected by the national tax service (NTS)), local taxes (collected by local tax services (LTSs)), and shared taxes (collected by both the NTS and the LTSs) (Table AIII.4); the NTS and LTSs are tax collecting agencies under the SAT.

[141] Information on, *inter alia*, international market, China's trade policies, exhibitions, relevant statistics, and SME trade related information. Trade Promotion online information. Viewed at: http://www.tdb.org.cn.

[142] In addition, on 1 January 2007, the tax base of the "city and township land use tax" was expanded, from domestic enterprises and individuals to all enterprises and individuals using land in China. The "land use charge" on FIEs and foreign individuals was removed. In addition, the "vehicle and vessel usage tax" on domestic enterprises and individuals, and the "vehicle and vessel licence tax", on foreign enterprises and individuals, were unified into a new "vehicle and vessel tax", levied on domestic and foreign enterprises, individuals, or organizations.

[143] The Ministry of Finance also collects some taxes, such as the deed tax.

Table III.8
Tax revenue, 2004-06
(Y billion)

	2004	2005	2006
Total government revenue	2,639.6	3,164.9	3,876.0
Tax revenue	2,416.6	2,877.9	3,481.0
Indirect taxes	1,847.2	2,134.0	2,531.6
Consumption (excise) tax[a]	150.2	163.4	188.6
Value-added tax[b]	901.8	1,079.2	1,278.5
Consumption tax and VAT on imports	370.0	421.2	496.3
Tariffs	104.4	106.6	114.2
Business tax	358.2	423.2	512.9
Agriculture-related taxes[c]	90.2	93.6	108.4
Direct taxes	569.4	743.9	949.4
- Enterprise income tax	395.7	534.4	704.0
- Individual income tax	173.7	209.5	245.4

a Not including the excise tax on imports.
b Not including the VAT on imports.
c Before 2004, agriculture-related taxes were: agriculture tax, animal husbandry tax, special agriculture tax, slaughter tax, deed tax, and farmland occupation tax. Special agriculture tax (apart from tobacco leaf tax) was removed in 2004; animal husbandry tax was removed in 2005; and agriculture tax and slaughter tax were removed in 2006. As of 2006 the deed tax and the farmland occupation tax remain in place.

Source: National Bureau of Statistics of China, *China Statistical Yearbook*, various issues; and WTO Secretariat calculations.

(b) Indirect taxation

147. Most tax revenue (72.7% in 2006) comes from indirect taxes, including consumption tax, VAT, and business tax.[144] Tariffs accounted for 3.3% of total tax revenue in 2006.

Consumption tax

148. Consumption (or excise) tax is levied on certain domestic and imported goods. Under the Notice on Adjustment and Improvement of Consumption Tax Policy, issued by the Ministry of Finance and the State Administration of Taxation (effective from 1 April 2006), product coverage and rates were adjusted.[145] For example, some luxury items and "resource-consuming" products, such as golf balls and equipment, luxury watches, yachts, disposable wooden chopsticks, and wooden floorboards, were added to the list of products subject to consumption tax; five types of refined oil products (aviation kerosene, fuel, lubricants, naphtha, and solvents) were also included. On the other hand, skin-care and hair-care products that have already become "daily necessities" were removed from the list. Rates for automobiles, motorcycles, automobile tyres, and white spirits were adjusted (Table III.9). Excise tax is fully rebated for exports.

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[144] In this report, all taxes other than individual and enterprise income taxes are classified as indirect taxes.

[145] Notice on Adjustment and Improvement of Consumption Tax Policy. Viewed at: http://www.gov.cn/banshi/2006-03/23/content_234946.htm (in Chinese) [12 February 2008].

Table III.9
Excise (or consumption) tax, 2007

Product	Rate
Tobacco	
Cigars	40%
Cigarettes, if the price is higher than Y 50 per carton	45% plus Y 150 per carton
Cigarettes, if the price is lower than Y 50 per carton	30% plus Y 150 per carton
Some tobacco products	30%
Alcoholic drinks and alcohol	
Alcoholic preparations for the manufacture of beverages	5%
Beer made from malt, and of a value over or equal to US$370 per tonne	Y 250 per tonne
Beer made from malt, and of a value less than US$370 per tonne	Y 220 per tonne
Wine of fresh grapes	10%
Vermouth and other similar alcoholic beverages	10%
Yellow rice wine	Y 240 per tonne
Other fermented beverages	10%
Ethyl alcohol	5%
White spirit distilled from grain	20% plus Y1 per kg
White spirit made from potatoes	20% plus Y1 per kg
Gasoline	
Motor gasoline and aviation gasoline	Y 0.2 per litre
Light diesel oil	Y 0.1 per litre
Aviation kerosene	Y 0.1 per litre (currently exempt)
Naphtha[a]	Y 0.2 per litre (Y 0.06 per litre until 31.12.07)
Solvent[a]	Y 0.2 per litre (Y 0.06 per litre until 31.12.07)
Lubricants[a]	Y 0.2 per litre (Y 0.06 per litre until 31.12.07)
Some fuel oil[a]	Y 0.1 per litre (Y 0.03 per litre until 31.12.07)
Some mixtures of odoriferous substances	5%
Some cosmetics (apart from skin-care products)	30%
Firecrackers and fireworks	15%
Motor vehicle tyres	3%
Tyres with radial ply construction	0%
Floor boards	5%
Disposable chopsticks	5%
Precious jewellery, pearls, precious jade and stone	
Pearls, jade and precious stones	10%
Motor vehicles	
Passenger vehicles with more than 9 seats	5%
Vehicles with a cylinder capacity of less than 1,000 ml	3%
Passenger vehicles with less than 9 seats	
- with a cylinder capacity of 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	15%
- with a cylinder capacity of 4,000 ml or more	20%
Electric motor vehicles, and others	0%

Table III.9 (cont'd)

Product	Rate
Motorcycles	
With a cylinder capacity less than or equal to 250 ml	3%
With a cylinder capacity over 250 ml	10%
Electric motor cycles, and others	0%
Some boats	
Sail boats, with motor, longer than 8m but shorter than 90m	10%
Motorboats	10%
Yachts or other vessels for pleasure or sports	10%
Some luxury watches, with an unit price higher than Y 10,000	20%
Golf clubs, balls, and other golf equipment	10%

a From 1 January 2008, excise tax on naphtha, solvent, and lubricants is levied at Y 0.2 per litre; excise tax on some fuel oil is levied at Y 0.1 per litre.

Source: MOF and SAT Notice on Certain Issues Regarding Import Consumption Tax. Viewed at: http://www.gov.cn/gzdt/2006-04/01/content_242504.htm [20/06/2007]

Value added tax

149. The VAT is levied at a standard rate of 17%; some items are subject to a reduced rate of 13%, 6%, and 4%, and others are exempted (Table III.10).[146] As the main indirect tax, VAT accounted for 47% of total tax revenue in 2006. Revenue from the VAT is shared between the central and provincial governments; 75% goes to the Central Government. For goods subject to consumption tax, the VAT is calculated on the domestic price (c.i.f. price plus tariff for imports) plus the consumption tax.

150. Unlike a consumption-based VAT, China's value-added tax is production based; thus capital goods are included in the tax base. From 1 July 2004, a pilot project was launched in north-east China to transform the VAT from a production-based to a consumption-based tax, covering certain industries.[147] In 2007, China adjusted the pilot project in terms of its coverage, tax credit and reduction mode, and tax rebate application procedure, to prepare for nationwide VAT reform. From 1 July 2007, the pilot programme was expanded to 26 cities in 6 provinces in central China.

151. In line with the practice in most countries that levy a VAT, exporters are entitled to VAT rebates; however, in China, VAT is not necessarily rebated fully on exports. Rebate rates are 17%, 13%, 11%, 9%, and 5% (section (3)(iii))[148]; they are changed frequently and have, in many cases, been lowered or removed since 2005. The authorities state that reducing or eliminating VAT rebate rates is aimed at reducing exports of goods that consume large amount of energy and/or natural resources or are highly polluting, and goods considered prone to trade friction (such as textiles, furniture, plastics and lighters). On the other hand, in 2006, VAT rebates were increased from 13% to

[146] Provisional Regulations on Value Added Tax, adopted by the State Council on 26 November 1993 and effective 1 January 1994.

[147] In September 2004, MOF and SAT jointly issued Circular 156 on the Provisions on Expanding the Qualifications of Fixed Asset Input VAT Deductions in the Northeast Region. The pilot programme was extended to: equipment, manufacturing, petrochemical, metallurgy, shipbuilding, auto manufacturing, and agricultural processing industries. The authorities state that the pilot project is aimed at removing overlapping tax levies; by lowering investment costs in the area, the project encouraged enterprises to purchase machinery and conduct technological upgrading and innovation, which in turn contributed to economic development.

[148] Central Government online information. Viewed at: http://www.gov.cn/xwfb/2007-06/19/content_653538.htm (in Chinese) [8 February 2008].

17% on, *inter alia*, IT and high-tech products, with a view to removing the potential impediment to the export of the products concerned.

Table III.10
VAT, 2007

VAT rate	Item
Exempted	Agricultural products sold directly by producers (including plants, breeding, forestry, animal husbandry and aquatic products) Contraceptive medicines and devices Antique books Instruments and equipment imported to be used in scientific research, experiments, and education Imported materials and equipment given by foreign governments and international organizations as aid Equipment and machinery required to be imported under contract processing, contract assembly, and compensation trade Articles imported directly by organizations for the disabled for the exclusive use of the disabled Used articles (including used articles belonging to individuals; sale of second-hand items, with the selling price lower than original value; sale of used yachts, motorcycles and motor vehicles with selling price lower than original value. Excluding yachts, motorcycles and motor vehicles subject to consumption tax) Other item specified by the State Council
4%	For small-scale taxpayers engaged in wholesale or retail business
6%	For small-scale taxpayers engaged in the production of goods or the provision of taxable services
13%	Grains, edible vegetable oil Tap water, central heating, air conditioning, hot water, coal gas, liquefied petroleum gas, natural gas, methane, and coal/charcoal products for household use Books, newspapers, magazines (excluding newspapers and magazines distributed by the post department) Feeds, chemical fertilizers, agrochemicals, agricultural machinery, and agricultural sheeting Gods specified by the State Council (agricultural products, mining of metals, mining of non-metals) Imported audio and video products and other forms of e-publications (as of 15 September 2007)[a]
17%	All other taxable goods and services, both domestically produced and imported

a Central Government online information. Viewed at: http://www.gov.cn/zwgk/2007-09/20/content_756025.htm [02/10/2007]

Source: Provisional Regulations on Value added Tax, promulgated by Decree No. 134 of the State Council, effective 1 January 1994; and the Rules for the Implementation of the Provisional Regulations on Value Added Tax promulgated on 25 December 1993.

Business tax

152. Since the previous Review of China, there have been no changes to the business tax, which is levied on domestic taxable services, transfers of intangible assets, and sales of immovable property, all of which are excluded from the VAT. The tax is not levied on imports. Business tax rates range from 3% to 20% on business turnover; revenues from the business tax accounted for 14.7% of total tax revenue in 2006.

(c) Direct taxation

153. Direct taxes (individual income tax and enterprise income tax) accounted for 27.3% of total tax revenue in 2006. The threshold for payment of individual income tax was raised on 1 January 2006 and on 1 March 2008. The Enterprise Income Tax Law, which entered into force on 1 January 2008, unified the enterprise income tax for domestic and foreign-invested enterprises, which had been subject to different tax rates.

Enterprise income tax

154. Enterprise income tax accounted for 20.2% of total tax revenue in 2006. The statutory income tax rate is currently 25% (since 1 January 2008); previously, the statutory income tax rates were 33% for domestic enterprises and 15% or 24% for most FIEs located in SEZs and other zones. It was estimated that, as a result of various tax concessions, the average income tax rate of domestic

enterprises was about 25%, and that of FIEs was about 15%.[149] Revenue from enterprise income tax is shared 60:40 between the central and local governments.

155. The Enterprise Income Tax Law, adopted on 16 March 2007, introduced the unified tax rate of 25%.[150] Under the Law, incentives for FIEs have been largely eliminated, although there is a transition period of up to five years for existing tax holidays. FIEs established before 16 March 2007, and those subject to a 15% income tax rate before 2008, will pay 18% in 2008, 20% in 2009, 22% in 2010, 24% in 2011, and 25% in 2012. FIEs that were subject to a 24% income tax rate before 2008, pay 25% from 2008. FIEs that were benefiting from the "two-year exemption followed by three-year half deduction" or the "five-year exemption followed by a five-year half deduction" tax holidays retain the remaining tax holiday. If an FIE was entitled to such a tax holiday, but it had not commenced due to accumulated losses, it is to benefit from the tax holiday from 2008.[151] Also, from 1 January 2008, if an FIE does not have any commercial establishment in China, or the income earned in China has no connection with such an establishment, a withholding tax of 10% applies to dividends, interest, royalties, capital gains, and other income earned in China in accordance with the Implementation Rules to the Enterprise Income Tax law, promulgated on 6 December 2007.[152]

156. Nonetheless, incentives for investors in less-developed regions, such as western China, and for investment in activities that the Government wishes to encourage, such as agriculture, environmental protection, and renewable energy, remain in place. Enterprises engaging in high-tech and new technology activities pay a tax rate of 15%; if such enterprises were established in SEZs or Shanghai Pudong New Area on or after 1 January 2008, they are exempt from income tax in the first two years from the year during which revenue from production and business operation is first derived, and then subject to 12.5% (i.e. half of the standard statutory rate of 25%) in the third to the fifth years.[153] In addition, small-scale, low-profit enterprises meeting certain requirements pay tax at 20%. The specific requirements are provided in the Implementation Rules to the Enterprise Income Tax Law. The Implementation Rules, however, do not have any provisions regarding the grandfathering period for incentives.

157. It was estimated that, as a result of the enactment of the Enterprise Income Tax Law, tax revenues in 2008 will be Y 93 billion less than under the previous income tax regime; FIEs will pay Y 41 billion more enterprise income tax, while domestic enterprises will pay Y 134 billion less.[154] Some researchers argue that a unified tax structure would lead to welfare losses.[155] The authorities did not provide any information on the cost-benefit analysis of the effect of the new Enterprise Income Tax Law.

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[149] OECD (2007a).

[150] The Enterprise Income Tax Law also unified the separate legislation applying to domestic enterprises and FIEs i.e. the Provisional Regulations on Enterprises Income Tax, published by the State Council on 13 December 1993, and the Income Tax Law for Enterprises with Foreign Investment and Foreign Enterprises, adopted in April 1991. According to the authorities, the main features of the Law include: providing a moderate tax rate; adjusting tax incentives; and reinforcing provisions to avoid tax evasion.

[151] State Council Notice (No. 39, 2007) on the Implementation of the Transitional Preferential Enterprise Income Tax Policies.

[152] Until end 2007, no withholding tax was levied on business profits remitted overseas as dividends to foreign investors by FIEs. Foreign enterprises were subject to a withholding tax of 10% on remittances abroad of interest, royalties, and other income earned in China.

[153] State Council Notice (No. 40 of 2007) on the Implementation of the Transitional Preferential Tax Treatment for Advanced and New Technology Enterprise Newly Established in SEZs and Shanghai Pudong New Area.

[154] OECD (2007a).

[155] Whalley and Wang (2007). Using 2004 data, these researchers found that the unified tax rate will lead to welfare losses of 0.26% or 0.19% of GDP.

Individual income tax

158. On 1 January 2006, the authorities raised the standard threshold for payment of individual income tax from Y 800 to Y 1,600 per month to reduce the tax burden on low- to middle-income individuals, and to mitigate China's growing income inequality.[156] This threshold was raised again, to Y 2,000 per month on 1 March 2008. Revenue from individual income tax is shared between the central and local governments, at 60:40. The tax on interest income from bank deposits was reduced from 20% to 5% in August 2007.[157] The authorities stated their intention to use the measure to suppress over-investment in the real estate and stock markets.

(d) Tax incentives

159. China's latest notification to the WTO Committee on Subsidies and Countervailing Measures (April 2006) listed 78 programmes in force at the Central level between 2001 and 2004.[158] A large part of these subsidies programmes involved income tax reductions and exemptions, based on the ownership of enterprises (particularly FIEs), their location, and their activities. Some other forms of tax reductions and exemptions, such as VAT and tariffs concessions, were also provided. Despite the large number of programmes notified, a breakdown of estimated annual revenue forgone as a result of individual tax incentives is not available; nor has China provided the Secretariat with an evaluation of the cost-effectiveness of these tax incentives. In the absence of empirical evidence to the contrary, there is considerable doubt as to whether such incentives are effective. A breakdown of estimated tax revenue forgone (along the lines of tax expenditure accounts) as a result of these incentives together with economic evaluations of their cost-effectiveness would greatly improve the transparency of these measures.

160. With the entry into force of the Enterprise Income Tax Law in 2008, tax incentives granted to FIEs will be gradually phased out and after the five-year transition period, there will be no difference in tax incentives accorded to domestic enterprises and FIEs (section (c) above). Enterprise income tax reductions or exemptions are now accorded to, *inter alia*: agriculture; key infrastructure projects supported by the State; some environmental protection, energy or water saving projects; certain technology transfers; enterprises located in western regions or ethnic areas; small-scale, low-profit enterprises; and enterprises engaging in high-tech activities. An enterprise's expenditure on R&D can be fully deducted from the enterprise income tax.

161. Since China commenced its economic reform and opening-up to the outside world, special economic and other zones have been set up to attract FDI and promote economic development (Table AIII.5). Enterprises located in special economic and other zones received preferential tax treatment. After the entry into force of the Enterprise Income Tax Law, certain tax incentives accorded to industries located in special economic zones has been "grandfathered".[159]

162. Since July 2003, the State Council has deployed relevant agencies, such as the NDRC, the Ministry of Land and Resources, and the Ministry of Construction, to review and assess the

[156] Foreign expatriates are given an additional deduction of Y 3,200 per month. See WTO (2006) for details of individual income tax.
[157] Income from dividends, incidental income, and rentals remains taxed at a flat rate of 20%.
[158] WTO document G/SCM/N/123/CHN, 13 April 2006.
[159] State Council Notice No. 39 of 2007.

qualifications of development zones, which many local governments had established. Subsequently, the number of zones fell from 6,866 (in 2003) to 1,568 in 2006.[160]

(ii) Direct transfers and non-tax subsidies

163. China also makes use of direct transfers and non-tax subsidies.[161] These are provided for poverty alleviation; development of small and medium-sized enterprises (SMEs); and certain agriculture related activities.

164. Total budgetary expenditure was Y 4,042 billion in 2006, which amounted to 19.2% of GDP; expenditure on capital construction and support for agriculture remained the largest direct transfers by the Central Government (Table III.11). Innovation funds and science and technology funds accounted for 4.3% of total budgetary expenditure[162], "price subsidies" for 3.4%.[163] The Government also continues to provide subsidies to loss-making SOEs if the losses are due to price controls or other government policies (0.4% of total budgetary expenditure).

Table III.11
Selected government transfers, 2004-06
(Y billion and per cent)

	2004	2005	2006
Total budgetary expenditure	**2,848.69**	**3,393.03**	**4,042.27**
Transfers to loss-making SOEs	21.79 (0.8)	19.33 (0.6)	18.02 (0.4)
"Price subsidies"	79.58 (2.8)	99.85 (2.9)	138.75 (3.4)
Expenditure for capital construction	343.75 (12.1)	404.13 (11.9)	439.04 (10.9)
Additional appropriation for circulating capital of enterprises	1.24 (0.04)	1.82 (0.05)	1.66 (0.04)
Agriculture[a]	233.76 (8.2)	245.03 (7.2)	317.30 (7.8)
Innovation funds and science and technology funds	124.39 (4.4)	149.46 (4.4)	174.46 (4.3)
Expenditure for supporting underdeveloped areas	18.09 (0.6)	19.54 (0.6)	22.01 (0.5)
Extra-budgetary expenditures	**435.17**	**524.25**	**..**

.. Not available.

a Includes expenditure to support agricultural production and for capital construction, science and technology promotion funds, and rural relief funds.

Note: Figures in parenthesis show percentage of total budgetary expenditure.

Source: National Bureau of Statistics, *China Statistical Yearbook 2007*.

165. Two of China's policy banks, the Agricultural Development Bank of China (ADBC) (Chapter IV(2)), and the Export-Import Bank of China (EXIM Bank (section (3)(vii)(b))), continue to provide subsidized loans. The ADBC is responsible for, *inter alia*: supporting the construction of a national reserve system for grain, cotton, and edible oil; providing funds for the purchase of grain and cotton; facilitating the processing of agricultural products; and promoting agricultural industrialization as well as the development of agriculture and the rural economy. The EXIM Bank provides financial

[160] NDRC online information. Viewed at: http://www.ndrc.gov.cn/xwfb/t20070419_130504.htm (in Chinese) [8 February 2008]. Nonetheless, the authorities still consider the zones are efficient in attracting investment as a new development zone - Binghai Zone in Tianjin, was established in 2006, and some other new zones are to be set up.

[161] WTO document G/SCM/N/123/CHN, 13 April 2006.

[162] These funds, however, are apparently only part of total R&D expenditure, which accounted for 1.5% of GDP in 2006 (Chapter I(1)).

[163] "Price subsidies" refer to budgetary expenditures to, *inter alia*, subsidize the prices of grain, cotton, edible oil, and meat; and to curb drastic price fluctuations.

support to promote exports of mechanical and electronic products, and high and new technology products, as well as to facilitate imports of key technologies and equipment, or petroleum, natural gas, and other mineral products in the form of large-volume and long-term contracts. Preferential loans for infrastructure and other projects used to be provided by the China Development Bank (CDB), which provides long-term financial support for the country's infrastructure construction, as well as industries of "key importance".[164] However, reform of policy banks started from early 2007 together with other financial reform programmes. Reform of the CDB was intended to change it to a commercial bank, and loans are now provided following market-oriented principles; reforms of the ADBC and the EXIM Bank are concentrated mainly on internal management.[165] The authorities indicate that the NPL ratios of all the three policy banks have fallen: for the CDB, from 0.87% in 2005 to 0.72% in 2006; for the ADBC, from 10.29% in 2005 to 7.65% in 2006; and for the EXIM Bank, from 4.91% in 2005 to 3.47% in 2006.

166. Direct assistance for farmers has been introduced since 2004. The value of assistance was Y 42.7 billion in 2007, a 63% increase from 2006: Y 15.1 billion for grain planting, and Y 27.6 billion for farming materials, e.g. fertilizers and pesticides. In 2006, China notified its domestic support for the agriculture sector covering the period 1999 to 2001.[166] Funds are also provided for rural infrastructure including water supply for irrigation, training, and environmental protection.

167. In addition, with the increasing regional disparities, several regional development programmes have been adopted to facilitate the development of western regions, and some poverty-stricken areas.[167] The Government has been implementing reforms to revitalize north-east China since 2003 with a view, *inter alia,* to accelerating the reform of SOEs and promoting the construction of infrastructure.[168] To this end, the Government has, *inter alia*: implemented a pilot project on VAT reform; promoted reform of social security programmes; and stripped the social functions from SOEs. From 2006, China also introduced the strategy on the Rise of Central China. Transfers by the Central Government to local governments reached Y 264.7 billion in 2005 and 2006, of which, 94.6% to governments in central and western China. In particular, a combined Y 31.5 billion was allocated in 2005 and 2006 to ethnic regions, which are mainly (99.5%) located in western China.[169]

(iii) Other industrial policies and measures

168. Direct intervention in the economy remains the main approach of industrial policy. Nonetheless, there has been a shift towards the use of various other policy tools to channel resources into certain activities that the Government believes are important for China's continued growth and development. In addition to tariffs and other border tax measures, tax incentives, and subsidies, these tools include "guided" credit, various "catalogues" identifying sectors eligible for incentives, as well as restricted or prohibited activities, various forms of "guidance" including section-specific "industrial development policies" (e.g. for steel, automobiles, and cement), and price controls.

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[164] Total loans provided by the CDB were Y 576 billion in 2006, down from the Y 616.4 billion in 2005.

[165] *Xinhua News* online information, 15 January 2007. Viewed at: http://news.xinhuanet.com/fortune// 2007-01/15/content_5608015.htm (in Chinese) [12 February 2008]. On 31 December 2007, Central Huijin Investment Co. signed a contract to inject US$20 billion into the CDB (*Xinhua News,* 1 January 2008).

[166] WTO document G/AG/N/CHN/8, 31 March 2006.

[167] WTO document G/SCM/N/123/CHN, 13 April 2006.

[168] Revitalization of the Northeast and other Old Industrial Bases commenced in 2003.

[169] In addition, from 2006, students in rural areas in western and central regions were exempted from tuition and incidental fees, and assistance with boarding fees, incurred in their compulsory education was provided. The exemption and assistance were expanded to the rural areas in other parts of China from 2007.

(a) Catalogues and "guidance"

169. The Government set a target under the Eleventh Five-Year Plan to reduce the energy intensity of GDP by 20% between 2006 and 2010, and aims to meet the target through innovation and technology upgrading, which can also increase the value added in the economy. Under the plan, the Government proposed to accelerate the transformation of the economy from being "resource dependent" to "innovation driven"[170], acknowledging that the energy efficiency of the economy has been low (or its energy intensity has been high).[171]

170. The Government aims to achieve such objectives by promoting or reducing investment in certain sectors identified in the Catalogue of Guidance Regarding Industrial Structural Adjustment, issued by the NDRC in December 2005, together with Major Measures to Promote the Adjustment of Industrial Structure. The catalogue, which is currently under revision, covers more than 20 industries, including 539 encouraged categories, 190 restricted categories, and 300 prohibited categories (which are to be eliminated gradually or within a specific time frame).[172] Activities that can, *inter alia*, save energy, protect the environment, and upgrade technology are "encouraged". The catalogue states that departments in charge of the administration of investment must not accept applications for new projects in the "restricted" and "prohibited" categories. It also states that "financial institutions shall stop providing credit support of any form". In addition, for investment in the prohibited category, "local governments, relevant department and enterprises concerned, shall take effective measures to eliminate these projects within a set period. During that period, competent departments in charge of setting prices can raise electricity tariffs for the projects". The import, transfer, production, marketing and use of production processes, technologies, equipment, and products in the prohibited category, are also strictly prohibited. [173] The catalogue applies equally to domestic enterprises and FIEs, the latter being also subject to the Catalogue for the Guidance of Foreign Investment Industries. The catalogue for FDI has been revised recently, with reference to the Catalogue of Guidance Regarding Industrial Structural Adjustment. The revised catalogue for FDI was promulgated on 7 November 2007, and effective 1 December 2007 (Chapter II(6)(ii)).

171. The Government has also continued to issue or update other regulations in order to "guide" investment. These include: the Guidance for Key Fields of High Tech Industries Developed by the State with Priority (23 January 2007), and the Announcement by the State Council on Promoting the Development of the Services Sector (19 March 2007). In addition to "industrial development policies" applied to the automotive and steel industries, a Cement Industry Development Policy was issued on 17 October 2006 by the NDRC.[174]

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[170] The Eleventh Five-Year Plan Guideline for National Economy and Social Development (2006-10) was approved by the fourth plenary session of the tenth NPC on 14 March 2006.

[171] For example, while China's economy grew by 11.9% in the second quarter of 2007, power production increased by 16% (*Financial Times*, 9 August 2007, "China starts long march to modernization").

[172] Other categories not included in the Catalogue are considered as "permitted" (NDRC online information. Viewed at: http://www.ndrc.gov.cn/yjzq/t20071226_182199.htm (in Chinese) [14 January 2008]).

[173] NDRC online information. Viewed at: http://en.ndrc.gov.cn/newsrelease/t20051222_54289.htm [12 February 2008].

[174] In 2006 and 2007, NDRC also issued entry criteria for: lead and zinc; fibreglass; tungsten, tin and antimony; electrolytic manganese metal; and steel. Opinions were issued in 2006 and 2007 to restructure the following industries: automotive, flat glass, lead and zinc, textiles and clothing, calcium carbide, electricity, cement, coal, ferroalloy, and coke.

(b) Price controls

172. Price controls, including government set prices and government "guided" prices[175], are applied to commodities and services deemed to have a direct bearing on the national economy and people's livelihood, including scarce natural resources and operations of natural monopolies or, according to the authorities, "for special purposes".

173. Since the previous Review, there has been no significant change to products subject to price controls, although stricter measures were taken to prevent price fixing, and temporary price intervention measures were adopted from January 2008 to ease inflationary pressure. The following products and services continue to be subject to price controls by the Central Government: key reserve materials of the State (grain, cotton, sugar, silkworm cocoons, crude oil, processed oil, and chemical fertilizer)[176], state-monopolized tobacco, edible salt, civil explosive equipment, some fertilizers, some key medicines, and educational materials, natural gas, water-resource projects subordinated to the Central Government or constructed in more than one province, electric power, military materials, important transportation (such as rail and civil aviation), and post and telecommunications services. The price control on edible vegetable oil was removed in March 2004. Some other products and services are subject to price controls by provincial governments; these include thermal power, water resources (apart from those subject to price controls by the Central Government), medical services, education, entrance fees for tourist sites, selling prices and rents of residential apartments and homes for the elderly, health-related services, and passenger transport by road.[177] In addition, a minimum procurement price for rice remains, and the minimum procurement price for wheat was introduced in 2006 (Chapter IV(2)(iii)).

174. Against the background of rising inflation, the Government has been adopting measures to stabilize prices. In accordance with an order issued jointly by six ministries in September 2007, price increases for goods subject to government-controlled prices (by both central and local governments) were not allowed before the end of 2007, unless approved by the NDRC.[178] However, the NDRC raised prices for petrol, diesel, and aviation kerosene on 1 November 2007. In January 2008, a series of measures were taken. First, changes in government-set and government-"guided" prices are strictly controlled: prices of gasoline, natural gas, and electricity, and charges for gas, water, heating and public transport in cities, must not be raised in the near future. Second, the Government started to intervene temporarily in setting the price of some important commodities and services, including grain, edible vegetable oil, meat, milk, and eggs; price changes of these commodities must be notified and registered with the relevant authorities. For example, the NDRC requires retailers and wholesalers "above a certain scale" to register one-off price increases of more than 4%, or accumulated rises of more than 6% within a ten-day period, or more than 10% within a 30-day period. If the NDRC disagrees with the price increase, it must inform the retailer or the wholesaler to stop the price increase or reduce the level of the increase.[179] Third, the Government started to monitor price changes of some basic necessities that do not have registration or notification requirements. Fourth, stricter penalties were adopted on illegal price activities. The State Council revised the Regulations

[175] Price controls are established under the Pricing Law and are set by the NDRC at the central level and by the Bureau of Commodity Pricing in each province. Government prices are fixed prices; government guidance prices are usually set as a basic price, and a range within which prices can fluctuate.

[176] Designated SOEs stockpile these commodities as required by the State. According to the authorities, price controls on these items extend only to the stock held by the State as part of its reserves.

[177] Prices of freight transport by road, and waterway transport are determined by the market.

[178] The order was issued jointly by the NDRC, Ministries of Finance, Agriculture, Commerce, SAIC, and AQSIQ, on 2 September 2007.

[179] NDRC online information. Viewed at: http://www.ndrc.gov.cn/xwzx/xwtt/t20080116_185353.htm (in Chinese) [12 February 2008].

on Administrative Punishment for Illegal Price Activities on 9 January 2008, to prevent companies from colluding in manipulating prices. The effect of these measures remains to be seen.[180]

175. In 2006, around 3.4% of the Government's total budgetary expenditure was on price subsidies, up from 2.9% in 2005 (Table III.11). The authorities state that, in 2006, products subject to price controls accounted for 4.7% of the total retail sales of consumer goods in China, up from 4.4% in 2005. The authorities indicate that the current statistical method does not include the sales of services to total retail sales, hence data on the ratio of sales of services subject to price controls were not available.

(iv) State-owned enterprises, privatization, and corporate governance

176. Prior to China's "open door" policy and associated economic reforms beginning in 1978, state (public)-ownership of the means of production and of other property had been the norm, with SOEs accounting for virtually all output and employment. Moreover, in the absence of a domestic capital market, insofar as SOEs had not been fully self-financing, they had relied on loans from state-owned banks or direct assistance from the Government. SOEs' investments had been motivated more by the output generated than their profitability, to the detriment of productivity. With China's opening, however, private enterprises were permitted to operate alongside SOEs in certain sectors, especially manufacturing, so that SOE, now account for 35% of GDP. In particular, foreign direct investment (FDI) involving foreign invested enterprises (FIEs) were encouraged (through, *inter alia*, reduced tax rates) as a vehicle for technological progress and export-led growth. FIEs tend to have much higher levels of productivity than domestic private enterprises and SOEs.

177. Enterprises in China can thus be classified into SOEs, collective-owned enterprises[181], "domestic private" enterprises, individual businesses (sole proprietorships)[182], and foreign-invested enterprises.

(a) State-owned enterprises and privatization

178. In China SOEs consist of those wholly owned by the State (SOEs), and those in which the State has controlling shares (state-controlled enterprises). The latter refers to enterprises in which the State, or another SOE, holds more than 50% of the equity; or, if the share of the equity is less than 50%, the State or another SOE has controlling influence on its management and operation. Also, SOEs can be grouped into central-level SOEs, and local-level SOEs. The State-owned Asset Supervision and Administration Commission (SASAC) is responsible for managing government assets and reform of central-level non-financial SOEs. According to the SASAC, SOEs under its management accounted for 40% of total SOE assets in 2006, and earned 60% of total profits. Local-level SASACs manage the government assets and reforms of local-level (non-financial) SOEs.

179. Since the previous Review of China, the reform of SOEs has continued; this includes the reorganization of SOEs (through mergers and acquisitions, as well as closing down), and their corporatization and privatization. As a result, the number of SOEs fell from 929,152 (12.08% of all

[180] To ease inflation pressure on grain products, export measures were also taken, such as levying interim export duties, removing VAT rebates on exports, and applying export quotas.

[181] Collective-owned enterprises typically take the form of township-village enterprises (TVEs). TVEs were formed from People's Communes and Production Teams based in villages. Some TVEs have been transformed into private enterprises and belong to the "non-public" sector; those that continue to be owned by town or village governments belong to the "public" sector.

[182] Those that employ less than eight workers are classified as individual businesses.

enterprises in China) in 2004, to 730,121 (8.46%) in 2006. SOEs held total assets of Y 29 trillion, and provided employment to 39 million people in 2006 (Y 18 trillion and 42.3 million people in 2003).

180. Following the policy adopted in 1997 to improve the performance of SOEs, selling of small and medium-sized SOEs and restructuring of large SOEs continued. Mainly because of mergers and acquisitions, the number of SOEs managed by the SASAC fell from 196 in 2005, to 157 in 2006.[183] The SASAC aims to reduce the number of SOEs subject to its management to 80-100 by 2010. Further restructuring of SOEs is being undertaken in accordance with the Opinion on Guidelines for Promoting the Restructuring of State-Owned Assets and SOEs, issued by the State Council in December 2006. According to the Opinion, the Government intends to retain state ownership in "industries involving national security, major infrastructure and important mineral resources, industries supplying important public goods and services, and important backbone enterprises in 'pillar' industries and high and new technology industries". In particular, seven "strategically important" sectors, including power generation and distribution, oil and petrochemicals, telecommunications, coal, aviation, and shipping, would remain under state control.[184]

181. SOEs are registered either under the Law on Industrial Enterprises Owned by the Whole People (effective 1 August 1988), or the Company Law (revised and effective 1 January 2006). The key difference between enterprises registered under the two laws is that those SOEs wholly-owned by the people of China (registered under the Law on Industrial Enterprises Owned by the Whole People) do not have a corporate management structure. That is, unlike those registered under the Company Law, these SOEs do not have a board of directors; rather, they are managed by general managers appointed by the Government.[185] At the same time, party committees play an important role in the management of these SOEs.

182. Since the previous Review of China, the number of SOEs registered under the Company Law has been increasing, and the authorities state that there is a trend (in accordance with the authorities' "guidance") to register all SOEs under the Company Law before 2010.[186]

183. Corporate governance of SOEs registered under the Company Law has improved, as external directors have been introduced to boards of directors since 2004[187], and open procedures to recruit general managers commenced in 2006. By end-July 2007, 66 external directors had been introduced to 17 SOEs. General managers of some SOEs managed by the SASAC have been recruited through open procedures.[188]

184. Corporate governance of SOEs has also been improved through their corporatization (transformation into joint-stock companies), and their listing on stock exchanges. By the end of 2006,

[183] By end-September 2007, the number of SOEs was further reduced to 155.

[184] *China Daily news*, "Control Over Key Industries 'Crucial' ", 19 December 2006.

[185] Although these SOEs can make their own managerial, operational, and production decisions, the State retains some control over the companies, including through the appointment of factory managers, as well as by punishing, rewarding, or removing factory managers or deputy-managers..

[186] Data provided by the authorities suggest that, the 196 SOEs (which are holding companies) managed by SASAC (in 2003) owned 15,546 SOEs at the central level; of these, 64.2% were registered under the Company Law in 2006 (up from 30.4% in 2002).

[187] "External directors" are those nominated by shareholders of the SOE, but are not the employees of the SOE, or its holding enterprise. In some cases, external directors are appointed by the SASAC (Chinaneast online news. Viewed at: http://chinaneast.xinhuanet.com/2005-02/27/content_3783141.htm (in Chinese) [12 February 2008]).

[188] From the establishment of the SASAC in 2003 to end July 2007, 103 senior management positions in 100 central-level SOEs were opened to public recruitment. At end 2006, 27.4% of all managers for central-level SOEs had been selected through the "open" procedures.

1,434 domestic firms had been listed on China's stock exchanges (up from 1,381 at the end of 2005); more than 1,000 are state-controlled enterprises. Between 2005 and 2006, 33 SOEs were newly listed on the Shanghai, Shenzhen, or Hong Kong Stock Exchanges.

185. As part of the corporate restructuring of SOEs, the Government has been "stripping off" non-core businesses from SOEs, such as provision of schools and clinics to employees and their families. Typically, before being listed in stock exchanges, SOEs are split into two parts: the parent company, which assumes responsibility for the firm's debts, its non-productive assets (such as schools and clinics) and any excess staff; and the subsidiary, which retains the productive assets and restructures as a joint-stock company.[189] At end 2006, 1,254 SOEs had separated their social functions from core businesses.

186. There are three different types of shares for listed SOEs: state shares (*guojia gu*), legal person (LP) shares (*faren gu*), and public shares (*geren gu*). Only public shares are traded on stock exchanges, while the other types are non-tradeable.[190] At end 2004, non-tradeable shares of listed companies accounted for 64% of total capital stock in domestic stock markets; the State owned 73.6% of these non-tradeable shares.

187. The China Securities Regulatory Commission (CSRC) issued Circular on the Pilot Programme of Non-Tradeable Shares Reform of Listed Companies on 29 April 2005, with a view to converting non-tradeable shares into tradeable ones (Table III.12). Certain shares of SOEs, depending on the sectors they engage in, must be reserved for the State: for example, 60% of shares in SOEs in the national defence industry, 51% in resource-based and high-tech industries, and 35% in agriculture and manufacturing.[191] CSRC, as well as other related agencies such as the SASAC and MOFCOM, has issued various rules to regulate the conversion. For example, the conversion plan of a listed SOE must be approved not only by two thirds of shareholders of non-tradeable shares (including the SASAC) attending the shareholders' meeting, but also by two thirds of public shareholders (holders of tradeable shares) attending the meeting. In addition, there is a "lock-up" period (on average three years) for conversion, during which the non-tradeable shares are not traded. From January 2006, foreign investors can purchase A-shares of companies in stock markets (section (b) below); they need approval from the SASAC to purchase shares in SOEs.[192] Apart from the shares reserved or regulated by the State, conversion of non-tradeable shares had been achieved in 96.6% of all listed enterprises by the end of June 2007.[193] Partly as a result of the transformation of non-tradeable shares into tradeable ones, China's stock markets have been developing rapidly (Chapter IV(5)(iii)(d)).

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[189] In some other cases, the entire company may be listed.

[190] State shares (*guojia gu*) are owned by the state asset-management company or other institutions that holds the States' assets in the company. Legal person (LP) shares (*faren gu*) are non-tradeable on the stock exchanges, but can be sold to other LPs. Public shares (*geren gu*), or A-shares, are tradeable and account for no less than 25% (15% if the total share capital exceeds Y 400 million) of the joint-stock company's total shares issued to domestic individuals and institutions.

[191] State-owned Assets Supervision and Administration Commission of Shanghai Municipal Government online information. Viewed at: http://www.shgzw.gov.cn/gb/gzw/gzjg/gzyw/userobject1ai35174.html (in Chinese) [12 February 2008].

[192] Other requirements include: the first purchase must be no less than 10% of the total shares issued by the company; shares purchased cannot be transferred or sold within three years of purchase; other ownership restrictions on foreign investment apply. (Measures for strategic investment by foreign investor in listed companies, issued on 31 December 2005.)

[193] CCTV news online information. Viewed at: http://news.cctv.com/china/20070805/102278.shtml (in Chinese) [11 February 2008].

Table III.12
Tradeable and non-tradeable shares of companies listed in China, 2004-06
(Billion shares and per cent)

	2004	2005	2006
Number of tradeable shares	257.7	291.5	563.8
A-Shares[a]	199.3	228.1	330.1
B-Shares[b]	19.7	21.8	22.9
H-Shares[c]	38.8	41.6	210.8
Number of non-tradeable shares	457.2	471.5	928.9
State-owned shares	334.4	343.3	458.8
State-owned shares as a percentage of non-tradeable shares (%)	73.1	72.8	49.4
Total (billion)	**714.9**	**763.0**	**1,492.6**
State-owned shares as a percentage of total shares (%)	46.8	45.0	30.7
Tradeable shares as a percentage of total shares (%)	36.0	38.2	37.8

.. Not available.

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 H-shares are shares issued by joint-stock companies registered in China but listed on stock exchanges abroad (Hong Kong, China; London; New York; Singapore); face value is dominated in RMB, traded in local currencies.

Source: CSRC (2007), *China Securities and Futures Statistical Yearbook*.

188. In addition, by end 2006, "policy-led" bankruptcies involved 4,251 SOEs (3,377 by 2004), which had been "suffering losses for a long time and were gradually exiting the market". Through "policy-led" bankruptcies, which started in 1994, the Government obliged SOEs "with long-term losses and no possibility of recovery or with debts larger than assets" to declare bankruptcy within a certain time frame. In contrast to common practice, under "policy-led" bankruptcies, remaining assets of these enterprises are used to assist the reallocation of employees, instead of paying off debts. 8.37 million employees have been reallocated since 1994. It appears that "policy-led" bankruptcies are to be completed by the end of 2008; as of 1 January 2009, all SOE bankruptcy cases are to be conducted according to the Law on Enterprise Bankruptcy (section (e) below).[194]

189. SOE profits increased from Y 750 billion in 2004 to Y 7.5 trillion in 2006, although profitability varies by region and by the size of the SOEs. The State Council issued the Opinions on the Pilot Programme of Budget Management of State-owned Assets in September 2007, under which, as of 2008, unspecified SOEs are to start paying dividends to the Government. In 2007, the Ministry of Finance, together with the SASAC issued regulations that determine the specific methods of dividend payment. SOEs at the central level are classified into three categories: resource-oriented SOEs (including those engaging in tobacco, coal, oil, power generation, and information industries) pay 10% of their net profits; general industrial enterprises (including those engaging in steel, automobile, and electronics) pay 5% of net profits; military enterprises and SOEs transformed from research institutions, as their profits are usually low, are exempt from paying dividends for three years. The obligation to pay dividends will undoubtedly reduce the amount of retained earnings available to SOEs for financing their investments, thereby forcing them to rely more on external financing, involving new shares or debt, which should help the development of the capital market. Moreover, given their important signalling function in stock markets, dividend payments together

[194] Caijing online information. Viewed at: http://www.caijing.com.cn/home/todayspec/2007-12-21/42581.shtml (in Chinese) [11 January 2008].

with greater tradeability of SOEs' shares could help improve the governance of SOEs, especially as far as investment is concerned. It follows that greater tradeability of SOEs' shares and their obligation to pay dividends could contribute to a more efficient allocation of capital in China.

190. Despite the reform, concerns remain over a continued misallocation of resources: although SOEs accounted for some 35% of GDP, their borrowing from domestic banks accounted for more than half of total lending by these banks. Private and foreign firms operating in China are able to achieve the same output as SOEs, by using less capital; FIEs, in particular, tend to be much more productive than domestic firms, especially SOEs.[195]

(b) "Domestic private" enterprises

191. The development of the private (non-public) sector (i.e. "domestic private" enterprises, individual businesses (sole proprietorships), and foreign-invested enterprises) has continued during the review period. Corporatization and privatization of SOEs, as well as the State Council's Guideline to allow the private (non-public) sector to invest in certain areas of the economy (which had been closed to them), have contributed to the sector's development. Recent research has found that the private (non-public) sector now accounts for more than half of industrial output in China, compared with around a quarter in 1998.[196] Private (non-public) sector firms are in general much more efficient than SOEs, as their rates of return on capital were nearly 30% higher than SOEs wholly owned by the people of China, and 10% higher than state-controlled companies.[197] Redirecting capital from the less efficient state sector to the private sector could further improve China's already fast economic growth.[198]

192. The authorities' definition of the private sector in China includes only domestic private enterprises, and excludes both individual businesses (sole proprietorships) and foreign-invested enterprises. Domestic private enterprises refer to firms whose assets belong to individuals and that employ more than eight workers; they include private limited liability companies, partnership companies, and individually-owned companies.[199] While the number of SOEs has been declining, the number of domestic private companies has continued to grow (Table III.13). Domestic private enterprises plus individual businesses employed 120 million people in 2006 (compared to 100 million in 2004, and 110 million in 2005).

Table III.13
Number of enterprises, 2004-06

	2004	2005	2006
State-owned enterprises (SOEs)	929,152	807,905	730,121
FIEs: equity joint ventures	92,940	93,495	93,367
FIEs: contractual joint ventures	18,438	17,486	16,119
FIEs: wholly foreign owned enterprises	130,489	148,572	164,895
Domestic private enterprise	3,650,670	4,300,916	4,980,774

Source: Data provided by the authorities.

195 Whalley and Xian (2006).
196 Dougherty et al. (2007).
197 Wei and Dollar (2007).
198 Liu and Siu (2006).
199 Domestic private enterprises are regulated under the Company Law, the Law on Partnership Enterprises (revised version came into effect on 1 June 2007), the Law on Individually-Owned Enterprises, and the Interim Regulations on Private Enterprises of 1988, which applies to domestic private enterprises registered between 1988 and 1994.

193. The Guidelines on Encouraging and Supporting the Development of the Non-Public Sector, including Individual and Private Enterprises (issued by the State Council on 25 February 2005) removed barriers for, *inter alia*, domestic private firms to enter into certain sectors, such as some public utilities, some financial services, and social services. However, domestic private firms still have much less presence in sectors characterized by state monopoly.

194. Data provided by the authorities show that 2% of domestic private enterprises engage in primary industry (farming, forestry, animal husbandry, and fishing), 33.3% in secondary industry (construction, mining, manufacturing, production and supply of electricity, gas and water), and 64.7% in tertiary industry (services). It would appear that the coastal provinces have more domestic private firms than inland regions.

195. The Chinese financial system, dominated largely by banks owned by the State, has traditionally favoured SOEs over domestic private firms. Banks' preference for SOEs is partly because SOEs are generally much larger than domestic private enterprises. Although financing channels for domestic private firms, which are typically small and medium sized, have been improved (section (d) below), it appears that financial constraints continue to impair their development. However, according to the authorities, there is no discrimination against domestic private enterprises in terms of bank loans, as loans are granted based on an enterprise's ability to pay back the loans, not on its scale or ownership. Also, the Government has been encouraging and supporting the development of domestic private enterprises, by facilitating their access to capital, owing to the important role played by these enterprises in China's economic growth and in providing employment.

196. Domestic companies used to face disadvantages compared with (more productive) foreign-invested enterprises, which benefited from preferential tax treatment, notably lower enterprise income tax rates. With the entry into effect of the Enterprise Income Tax Law, the different tax treatment is to be abolished after the transition period.

(c) Foreign-invested enterprises

197. Foreign invested enterprises (FIEs) include mainly wholly foreign-owned enterprises, as well as equity and contractual joint ventures.[200] Some FIEs may also be SOEs; for example, for equity joint ventures, the proportion of foreign investment must be no less than 25% of the registered capital, the State may have controlling shares of these enterprises and they become State-controlled enterprises. It seems that there are some new forms of FIEs, such as foreign-invested venture capital companies[201], and foreign-invested investment companies.[202]

198. The Catalogue on Encouraging, Restricting, and Prohibiting FIEs was revised, with a view to encouraging foreigners to invest in SOEs and some key industries that are crucial to regional development, particularly in western and central China, as well as north-east China. The revised catalogue entered into force on 1 December 2007.

[200] FIEs are regulated under the Law on Foreign Capital Enterprises, the Law on Chinese-Foreign Equity Joint Ventures, and the Law on Chinese-Foreign Contractual Joint Ventures.

[201] The Regulation on Foreign Invested Venture Capital Companies was issued in 2003. The Regulation is being amended although it is not certain when it will be completed.

[202] The Rules on the Establishment of Foreign Invested Investment Companies were issued in November 2004, effective December 2004.

(d) Small and medium-sized enterprises (SMEs)

199. SMEs include both private and public companies.[203] At end September 2007, there were 42 million SMEs (31.5 million in 2003), accounting for more than 99% of all registered enterprises in China, contributing about 60% of GDP, half of total tax revenues, and providing more than 75% of urban jobs.[204] SMEs have also employed more than 80% of workers laid off by SOEs.

200. The Government has been supporting the development of SMEs. Programmes include the Fund for Supporting Technological Innovation for Technological SMEs, the Development Fund for SMEs, the Fund for International Market Exploration by SMEs, and the Funds for entities providing services for SMEs.[205] Tax incentives are also provided to SMEs. In 2008, under the Enterprise Income Tax Law, small-scale, low-profit enterprises meeting certain requirements pay a reduced rate of 20% (instead of the statutory 25% for other enterprises). According to the Implementation Rules of the Enterprise Income Tax Law, small-scale, low-profit enterprises are: industrial enterprises whose total assets are less than Y 30 million, annual taxable income lower than Y 0.3 million, and with less than 100 employees; or other enterprises whose assets are less than Y 10 million, annual taxable income lower than Y 0.3 million, and with less than 80 employees.

201. To improve the financing channels for SMEs, a SME Board was established in the Shenzhen Stock Exchange in 2004. At end December 2007, 202 SMEs were listed on the Exchange, with total market value of Y 1,052.6 billion, and tradeable market value of Y 381.6 billion. Nonetheless, it seems that SMEs still face financing difficulties.[206]

(e) Corporate governance

202. An efficient capital market capable of mobilizing domestic savings and channelling them into the most productive investments is essential for improving China's competitiveness and long-term development. Good corporate governance is essential for the establishment of such a market. Although there are various laws regulating enterprises with different ownership structures[207], China's corporate governance regime is, in general, based on the Company Law, the Securities Law, and the Law on Enterprise Bankruptcy.

203. The Company Law was most recently amended on 27 October 2005, and the amended version entered into effect on 1 January 2006. Under the law, a company means a limited liability company, or a joint-stock limited company. For both, the highest authority of the company is the shareholders' meeting, and the board of directors is the decision-making body. The revised law reduced the minimum registered capital requirements for establishing a company, and allowed companies to pay the registered capital in instalments[208]; it also permitted an individual or a legal person to establish a

[203] Under the Provisional Rules on the Standards of Medium and Small Enterprises, issued on 19 February 2003, the definition of SMEs varies according to the sector they engage in and ranges from employing less than 2,000 persons and total assets of less than Y 400 million in the industrial sector, to employing less than 200 persons and total sales of less than Y 300 million in the wholesale sector. For details of the definition of SMEs, see WTO (2006), Table AIII.10.

[204] *China Daily*, 17 September 2007, "Official pledges more policy, legal support for small firms".

[205] WTO document G/SCM/N/123/CHN, 13 April 2006.

[206] *China Daily*, 17 September 2007, "Official pledges more policy, legal support for small firms": SMEs "are still facing hurdles in terms of market access, financing, human resources, and management techniques".

[207] WTO (2006).

[208] The minimum registered capital requirements fell from between Y 100,000 and Y 500,000 (depending on the business area) to Y 30,000 for a limited liability company, and from Y 10 million to Y 5 million for a joint-stock company.

single-person limited-liability company with minimum registered capital of Y 100,000.[209] The limitation that a company might only invest up to 50% of its net assets in other companies was removed.

204. Listed companies are defined as joint-stock limited companies that issue shares listed and traded on the stock exchanges; corporate governance of listed companies is regulated not only by the Company Law, but also the Securities Law (most recently revised in October 2005), and a series of rules including the Code of Corporate Governance for Listed Companies (the Code), and Guidelines for the Internal Control System of Listed Companies (issued by the Shanghai Stock Exchange on 5 June 2006).[210] The Code was issued by the China Securities Regulation Commission (CSRC) and the State Economic and Trade Commission (SETC) on 7 January 2002. It is mandatory, and sets out the basic principles for corporate governance, protection of investor interests, and the behaviour of directors, supervisors, managers, and other senior management in listed companies. State-owned or state-holding companies account for 79% of the listed companies.

205. A significant change to China's corporate governance system is the promulgation of the Law on Enterprise Bankruptcy, which entered into force on 1 June 2007. The previous Enterprise Bankruptcy Law (Trial) had been formulated in 1986, and had applied only to SOEs. The new Law, however, applies to all enterprises in China.[211] It sets out three procedures for insolvent enterprises: reorganization, reconciliation, and liquidation; reorganization was not included in the 1986 trial law. In addition, the new law authorizes the people's courts to recognize foreign bankruptcy proceedings under certain conditions.[212] According to a World Bank study, although China's laws sometimes leave more discretion to the people's courts, the principles of the Law on Enterprise Bankruptcy are broadly comparable to other modern bankruptcy laws.[213]

206. The Accounting Standards for Business Enterprises were issued by the Ministry of Finance on 15 February 2006, and came into force on 1 January 2007. The standards, which apply to all enterprises in China, are largely in line with international standards, with a few differences from the International Financial Reporting Standards (IFRS) (Chapter (IV)(5)(ix)).

207. The CSRC, together with the Ministry of Finance, is responsible for supervising the implementation of accounting standards by listed companies, and the operation of accounting firms and asset appraisal firms engaged in securities business. Currently, China has around 70 accounting firms and 100 asset appraisal firms engaging in securities and futures business, with about 80,000 practicing certified public accountants and 20,000 certified public appraisers.[214] The China Accounting Standards Committee has been in close cooperation, through regular meetings, with the International Accounting Standards Board (IASB), with a view to further bringing China's accounting system into line with international standards.

[209] Previously only FIEs and SOEs could be owned by a single shareholder.

[210] The CSRC issued the Guidelines for Establishing Independent Directors of Listed Companies on 16 August 2001; these required at least one third of the board to comprise independent directors by 30 June 2003. The Code for Responsibility of Independent Directors of Listed Companies is also in the formulation process.

[211] The new Law does not apply to "policy-led" bankruptcies of SOEs until 2009.

[212] Specifically, the people's courts shall not recognize foreign bankruptcy proceedings: if there are no treaty or reciprocal relationships between China and the relevant jurisdiction regarding the recognition of bankruptcy proceedings; if the foreign bankruptcy proceedings violate basic principles of Chinese law, or threaten China's state sovereignty, security or public interest; or if the foreign bankruptcy proceedings affect the legitimate interests of creditors in China.

[213] World Bank (2006c).

[214] Applicants must pass exams to obtain certified public appraisers certificates; the certification is issued jointly by the Ministries of Personnel and Finance.

(v) Competition and consumer protection policy

(a) Competition policy

208. Partly as a response to the apparent fragmented framework of competition policy, China had been trying to formulate a comprehensive antitrust law to consolidate the antitrust provisions. China's current competition regime (until the entry into effect of the Anti-Monopoly Law) comprises several pieces of legislation, including the Law Countering Unfair Competition, the Price Law, the Law on Bid Invitation and Bidding or Tendering, the Foreign Trade Law, and the Rules on Acquisitions of Domestic Enterprises by Foreign Investors (Table AIII.6).[215] The Law Countering Unfair Competition has been considered as the "basic law to maintain the order of competition in the market".[216] The law specified five actions restricting competition: abuse of monopoly positions by public utility companies, abuse of administrative power by administrative agencies, below-cost sales, coercive sales, and collusive tendering.[217] This law is currently being amended.

209. In addition, regulations for certain sectors, such as aviation, electricity, postal and telecommunications services, include provisions to introduce and encourage market competition. Furthermore, 27 provinces, autonomous regions, and municipalities issued local regulations against unfair competition. Between December 1993 and end 2006, a total of 325,649 anti-competition cases were investigated, involving Y 24.6 billion.[218] These cases included abuse of monopoly positions, collusive tendering, price fixing, tied selling, and administrative monopoly.

210. Currently, competition-related policies are enforced mainly by: the State Administration of Industry and Commerce (SAIC), which is responsible for enforcing the Law Countering Unfair Competition; MOFCOM and SAIC, which conduct anti-monopoly reviews of mergers and acquisitions of domestic enterprises by foreign investors; and NDRC, which supervises the enforcement of the Price Law and the Provisional Rules on Prevention of Monopoly Pricing. This administrative structure may pose a coordination problem in regard to the enforcement of competition-related laws and regulations. Difficulties in enforcement may also arise from "administrative monopolies", which include local governments' adopting measures to restrict market entry of enterprises from other regions. It would appear that MOFCOM, SAIC, and other related agencies have jointly conducted a survey of administrative monopolies at the provincial level in China; products affected include mainly alcoholic, tobacco, and meat products, pharmaceuticals, chemical products, automobiles, and construction materials.[219] Details of the survey results have not been provided to the Secretariat.

The Anti-Monopoly Law

211. Formulation of the Anti-Monopoly Law was first put on the legislative agenda of the Standing Committee of the National People's Congress in 1994. The Law was promulgated on 30 August 2007, and is to be effective 1 August 2008. Under the law an Anti-Monopoly Law Enforcement Authority is to be set up under the State Council. It remains to be seen how the new Authority will coordinate with SAIC, MOFCOM, and the NDRC on the enforcement of the Anti-Monopoly Law.

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[215] See WTO (2006) for details of these laws.

[216] WTO document WT/ACC/CHN/49, 1 October 2001.

[217] This law focuses on preventing: counterfeiting, misleading deceptive advertising, bribery, know-how infringement, and unfair lottery-attached sales and imputation.

[218] The value was calculated on the basis of the goods concerned.

[219] People's Daily online news (11 January 2006). Viewed at: http://www.people.com.cn/GB/54816/54822/4016799.html (in Chinese) [12 February 2008].

212. The law also specifies that its principal purpose is to "prohibit monopolistic conduct", and to "ensure the healthy development of the socialist market economy".[220] "Monopolistic conduct" is defined as: conclusion of monopoly agreements, abuse of dominant market positions, and concentration of enterprises that have (or are likely to have) the effects of eliminating or restricting competition. In particular, the law prohibits cartels and other anti-competitive agreements to, *inter alia*: fix, maintain, or change prices of products; limit the production volume of products; and jointly boycott transactions.[221] 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.[222] Also, enterprises with a dominant market position[223] are prohibited from *inter alia*: selling products at unreasonably high price or purchasing products at unreasonably low price; and without valid reasons, selling products at a price below cost.[224]

213. Mergers and acquisitions (M&As), as well as "administrative monopoly", are all covered. M&As above a certain scale need to be notified to the Anti-Monopoly Law Enforcement Authority to be set up under the State Council, and obtain approval. However, the scale is not specified in the law. The law incorporates a specific chapter that clearly forbids the following types of "administrative monopolies": designating commodities providers; obstructing the free flow of goods among different regions; excluding or restricting non-local operators from participating in local bidding activities; excluding or restricting non-local operators from investing or setting up branches; and setting out regulations related to the elimination and restriction of competition. Despite the need to deal with anti-competitive practices resulting from administrative monopoly, it was argued that inclusion of the issue in the Anti-Monopoly Law would increase difficulties in enforcing the Law.[225] Whether the Government is able to overcome these difficulties remains to be seen; it would depend not only on the efficiency of the to-be-established Anti-Monopoly Law Enforcement Authority, but also on enforcement at the local level.

214. All sectors of the economy, apart from certain activities related to agriculture, are covered by this law. However, certain SOEs that have a dominant position in the economy and affect national security, or that operate with exclusive rights granted by the Government, are "protected" under the law, and the Government is responsible for supervising and regulating the operations of these SOEs,

[220] The law is to apply to the "monopolistic conduct" in economic activities within the territory of China; it also applies to monopolistic conduct outside the territory of China that has "eliminative or restrictive effects" on competition in China's domestic market. However, how the law is to be applied on monopolistic conduct outside China is not specified.

[221] Other forms of monopoly agreements defined in the law are those that: segment the sales market or the raw materials purchasing markets; limit the purchase of new technology, new facilities, or limit the development of new products and new technology; or fix resale prices.

[222] Other forms of exemptions are: upgrading product quality, reducing cost, enhancing efficiency, and unifying the specifications and standards of a product; improving operation efficiency and enhancing competition capacity of SMEs; realizing social and public interests such as saving energy, protecting the environment; and alleviating serious decreases in sales or production surpluses during economic depression.

[223] Dominant market position is defined as: one enterprise accounting for more than half of the total market share in the relevant market; the joint market share of two enterprises accounting for more than two thirds; the joint market share of three enterprises accounting for more than three fourth.

[224] These enterprises are also prohibited from: without valid reasons, refusing to trade with certain trading partners; forcing trading partners to trade only with them, or only with enterprises designated by them; tying products or imposing unreasonable trading conditions; without valid reasons, applying differentiated treatment with regard to transaction conditions, such as trading prices to equivalent trading partners; and other abuse of dominant market positions determined by the Anti-Monopoly Law Authority (to be established).

[225] People's Daily online news (11 January 2006). Viewed at: http://www.people.com.cn/GB/54816/54822/4016799.html (in Chinese) [12 February 2008].

including the prices they charge.[226] On the other hand, foreign acquisitions of Chinese companies, if relating to national security, need to go through "national security reviews". However, "national security" is not defined in the law. Also, the law does not specify which government agency is to conduct "national security reviews". Further, given that the Rules on Acquisitions of Domestic Enterprises by Foreign Investors entered into force on 8 September 2006[227], the changes in the requirement for foreign acquisitions of domestic enterprises need to be clarified in the implementing regulations of the Anti-Monopoly Law, which are yet to be formulated.

International cooperation on competition policy

215. China has participated in competition-policy-related activities of APEC, the OECD, UNCTAD, and the WTO. In addition, China engages in exchanges and cooperation with competition authorities of European Communities, Japan, Republic of Korea, and the United States. SAIC signed the Agreement for the Cooperation and Communication in the Field of Anti Unfair Competition and Anti-Monopoly with Russia in 1996 and Kazakhstan in 1999.[228] In 2004, MOFCOM signed the Competition Bilateral Dialogue Agreement with the European Communities.

(b) Consumer protection

216. The major legislation on consumer-protection is the Law on the Protection of Consumer Rights and Interests, effective 1 January 1994. The law's objective is to protect the rights and interests of consumers by regulating transactions under the principles of voluntary participation, equality, fairness, honesty, and trustworthiness. The law also stipulates that enterprises offering goods and services to consumers must abide by the Product Quality Law, which aims to protect the interests of end-users and consumers by strengthening the supervision and control of the quality of products. In addition, the Law Countering Unfair Competition defines unfair competition as: deceptive selling (such as by counterfeiting a registered trade mark), bribery, deceptive advertising, and coercive sales. Other laws and regulations concerning consumer protection include the Agricultural Products Quality Safety Law, which stipulates the requirements for agricultural products; the Advertisement Law, which prohibits the publication of false advertisement; and the Trade Mark Law, which prohibits the fraudulent use of trade marks.

217. Enforcement of the consumer protection legislation is mainly the responsibility of the State Administration of Industry and Commerce (SAIC), with Customs facilitating enforcement at the border. In addition, AQSIQ is in charge of recalls of automobiles, and childrens' toys.

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[226] Article 7 of the law specifies: "The State shall protect the lawful operations of the undertakings in industries vital to the national economy and national security and controlled by the state-owned economy, as well as in industries subject to exclusive operations and sales according to the law, and shall supervise, adjust and control the operations of such undertakings and the prices of their products or services, in order to protect the interests of consumers and promote technical progress. These undertakings shall operate in accordance with the law, in good faith and in strict self-discipline, shall subject themselves to the supervision of the public, and shall not use their controlling position or exclusive position to the detriment of consumer welfare."

[227] The rules were issued jointly by CSRC, MOFCOM, SAFE, SAIC, SASAC, and SAT.

[228] In June 2007, SAIC signed a MOU on cooperation in consumer’s rights protection with the United States, and a MOU on information communication in consumer’s rights protection with Iceland.

(vi) Intellectual property rights

(a) Overview

218. With the Government becoming increasingly aware of the importance of IPR protection in facilitating innovation in the economy, IPR protection has been strengthened. China is a member of the World Intellectual Property Organization (WIPO), and a party to various multilateral IPR agreements (Table AIII.7). It joined the WIPO Copyright Treaty, and the WIPO Performances and Phonograms Treaty in March 2007.[229] China participates in IPR-related activities in APEC, WIPO, and the WTO. IPR working groups have been set up between China and several countries; under these working groups, meetings are held regularly to strengthen IPR enforcement in China. China has also set up IPR information exchange mechanisms with many countries and regions, with a view to enhancing IPR protection.[230]

219. Administration of IPRs is on two levels: administrative bodies under the State Council, and local administrative authorities. The administrative bodies under the State Council are responsible for examining and granting or registering intellectual property rights, while the local authorities administer and enforce them at the local level.

(b) Patents

220. Patent rights in China are protected under the Patent Law, its Implementing Regulations, and rules promulgated by the State Intellectual Property Office (SIPO) to implement the Patent Law. The Patent Law is currently being revised. The authorities state that the purpose of the revision is to further enhance patent protection by: improving "patent agent" system and the management of patent rights; clarifying the criteria for granting patents; and preventing the abuse of patents. Currently, patent rights for inventions are granted for 20 years from the date of filing (ten years from filing for utility models and designs).

221. SIPO is in charge of the administration of patents nationwide, handling and coordinating IPR-related international affairs, as well as representing China in international fora on intellectual property rights. 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.

222. Procedures regarding patent applications and granting of patents have not been changed since China’s previous Review.[231] Patent applications have been increasing: in 2006, there were 210,490 applications for inventions, an increase of 21.4% over the previous year. Of these, domestic applications increased by 30.8%, and foreign applications by 10.4%. In the same year, 57,786 patents (invention) were approved; of which more than half were foreign applicants (Table AIII.8).

223. If a patent applicant is not satisfied with SIPO's decision, requests for re-examination can be made to the Patent Re-examination Board. If the Board finds that the decision taken by SIPO does not comply with the provisions of the Patent Law and its accompanying rules and regulations, it can

[229] The decision to join the Copyright Treaty, and the Performances and Phonograms Treaty specified that the "internet terms" would not be applied to Hong Kong and Macao SARs. In addition, China made reservation on paragraph 1 of Article 14 of the WIPO Performances and Phonograms Treaty.

[230] These include ASEAN, Australia, Austria, Germany, Hong Kong, China, Republic of Korea, Japan, New Zealand, Russia, Spain, Switzerland, and the United Kingdom.

[231] For details of the procedures on patent applications and the granting of patents see WTO (2006).

revoke the decision and ask SIPO to continue the patent examination.[232] In 2006, the Board accepted 2,894 requests for re-examination, and completed 2,667 cases. If the patent applicant is still not satisfied with the Board's decision, he/she can appeal to a people's court.

224. Compulsory licences may be granted under the Patent Law. In particular, Article 49 of the Law provides that the Government can grant a compulsory licence in the event of a national emergency, or if "any extraordinary state of affairs occurs", or in the "public interest". Article 55 provides that the patent holder may appeal to a people's court if dissatisfied with the SIPO's judgement. According to the authorities, no compulsory licences have thus far been granted under these provisions.

225. The authorities are considering including parallel imports in the revision of the Patent Law. It is not clear whether they would be allowed. The authorities state that parallel imports regarding patents have never occurred in practice.

(c) Trade marks

226. As in the previous Review, trade marks are protected under the Trademark Law, the Regulations for the Implementation of the Trademark Law, and various rules issued by SAIC. The Trademark Law is also being revised, with the intention of shortening the examination period and enhancing trade mark protection. Currently, trade marks are valid for ten years, and renewable for ten years, indefinitely.

227. The State Trademark Office, under the State Administration of Industry and Commerce (SAIC), is responsible for the registration and administration of trade marks and geographical indications. Local enforcement authorities are in charge of administration of trade marks and geographical indications at the local level. All applicants are required to register their trade marks with the State Trademark Office. Foreigners and foreign enterprises are required to file an application in accordance with any agreement concluded between their country of origin and China, or any international treaty to which both are parties, or on the basis of reciprocity.[233]

228. Currently trade mark registration takes approximately 24 months, from submission of the application to the first action by the trade mark administration.[234] The authorities state that as the number of trade mark applications in China has continued to increase, the difficulty and complexity of trade mark examinations has also increased (Table AIII.8).[235]

229. Currently, China uses a "first-to-file" approach: if two or more applications were made for registration of the same or similar trade mark on the same or similar product, the Trademark Office makes a preliminary examination before approving and publicizing the first-applied trade mark. However, any person may oppose a trade mark that has been given preliminary examination and approval, provided the opposition is filed within three months of the day the first-applied trade mark was publicized. In particular, for trade marks that have already been used in other countries, but have

[232] SIPO online information. Viewed at: http://www.sipo.gov.cn/sipo/zlsc/sczn/pdf/4.2.pdf (in Chinese) [12 February 2008].

[233] Foreigners and foreign enterprises not domiciled in China or without industrial or commercial establishments in China may register their trade marks in China through an agency qualified to act as their agent.

[234] WTO document WT/TPR/M/161.Add.1, 15 June 2006.

[235] Nonetheless, the authorities intended to shorten the time of the registration procedure to 18 months, by reinforcing management and promoting the accuracy and speed of trade mark examination through computer examination system.

not registered in China, if they are "well-known trade marks", a copy, imitation or translation of that well-known trade mark cannot be registered and must be prohibited from use. A trade mark can be revoked even after being granted.

230. In the event that the Trademark Office decides to refuse registration, appeals may be made to the Trademark Review and Adjudication Board, or further to a people's court.[236] In 2006, 14,960 review applications were received by the Board and 4,219 were reviewed (10,144 and 6,305 in 2004).

231. Parallel imports are not addressed in the legislation on trade marks.

(d) Copyright and related rights

232. Copyright protection is granted under the Copyright Law, and its accompanying regulations.[237]

233. The National Copyright Administration of China under the State Council administers copyrights on a national scale. However, local copyright administration offices (under the local governments of provinces, autonomous regions, and municipalities directly under the Central Government) are in charge of local copyright registration and administration. Protection for cinematographic and photographic works is granted for fifty years, and typographical designs for ten years.[238] Protection for computer software is granted from the date on which its development was completed, for the lifetime of the author plus 50 years.[239]

234. Parallel imports are not covered in the copyright legislation, and are not prohibited.

(e) Other IPRs

235. There have been no significant changes to the legislation protecting other IPRs during the review period, including layout-designs of integrated circuits, and geographical indications.[240]

236. Layout-designs of integrated circuits are protected for ten years from the date of filing or the date of first commercial exploitation anywhere in the world, whichever expires earlier; in either case, the maximum duration of protection is 15 years from the date of creation. Layout designs are registered with and granted by SIPO.

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[236] WTO (2006).

[237] These include, *inter alia*, the Implementing Rules of the Copyright Law, the Regulations for the Protection of Computer Software, and the Regulation on the Collective Administration of Copyright. In addition, the State Council promulgated the Regulations on Protection of the Right of Communication through Information Network, which came into force on 1 July 2006.

[238] Article 21 of the Copyright Law specifies that, for a work created by a process analogous to cinematography, or a photographic work, the term of protection is 50 years, expiring on 31 December of the 50th year after the first publication of such work; however, such work is not protected under this Law if it is not published within 50 years of the completion of its creation.

[239] Software copyright exists from the date on which its development has been 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 50th 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 fifty years of its development, it is not protected under the Regulations for the Protection of Computer Software.

[240] See WTO (2006) for details of the protection for these IPRs.

237. A "non-voluntary" licence can be issued to exploit a layout design to remedy unfair competition practices or in special circumstances. The circumstances include: national emergencies; any extraordinary state of affairs; for the purposes of public interest; or if it is determined by the competition authority that there is a need to redress anti-competitive behaviour resulting from the protection. So far, no "non-voluntary" licences have been issued.

238. Geographical indications (GIs) are registered as collective marks or certification marks with the State Trademark Office under the same procedures as for trade marks. Data provided by the authorities show that, by end 2006, 219 geographical indications had been registered by the State Trademark Office.[241]

239. GIs are also regulated by the AQSIQ, which issued the Regulations on Protection of Products of Geographical Indications in June 2005. Apparently, this resulted in some confusion among producers and consumers.[242] Currently, more than 750 geographical indications have been approved by the AQSIQ, and have been protected. The authorities state that a law on geographical indication is to be issued before 2010.

240. There has been no significant change to legislation on protection of plant varieties, which is granted for 20 years from the date of authorization for vines, forest trees, fruit trees, and ornamental trees, and 15 years for other plants. No changes have been made regarding undisclosed information or trade secrets.

(f) Enforcement

241. Despite a detailed legal framework on IPR protection, some of China's trading partners, as well as some domestic businesses, consider that its IPR enforcement remains weak.[243] The authorities state, however, that China has established a relatively complete legal framework on IPR protection, and has made great achievements and progress on IPR enforcement. Realizing the importance of IPR protection in facilitating innovation in the economy, China has shifted the focus from formulating legislation to enhancing law enforcement.[244]

242. 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.[245] Judicial actions are taken through the public security authorities, procuratorial organs, and the courts. The number of cases settled through administrative actions remains high (Table III.14). Cases dealt with by courts has also increased: 14,219 first instance civil IPR cases were accepted by courts and 14,056 were concluded in 2006 (up 5.92% and 4.95%, respectively, from 2005) (Table AIII.9). In 2006, four regulations were issued to facilitate the transfer of cases to be settled from administrative actions to judicial measures.[246] Despite these measures, administrative

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[241] There were 31 (14% of the total) foreign GIs.

[242] *Xinhua News* online information, 23 July 2007. Viewed at: http://news.xinhuanet.com/politics/2007-07/23/content_6414874.htm (in Chinese) [11 February 2008].

[243] Central Government online information. Viewed at: http://www.gov.cn/zwhd/2006-05/15/content_80339.htm (in Chinese) [12 February 2008].

[244] See WTO (2006) for details of the enforcement framework.

[245] WTO (2006).

[246] The four regulations were jointly promulgated by, *inter alia*, the Supreme People's Procuratorate, the Ministry of Public Security, the National Copyright Administration, the SAIC, and the Customs. These regulations are the Provisional Regulation on Better Connection in the Fight Against Crimes Involving Infringement on the Exclusive Use of Trademarks (promulgated on 13 January 2006); the Opinion on Speedy Referral of Suspected Criminal Cases by Administrative Law Enforcement Authorities (26 January 2006); the Provisional Regulation on Better Coordination in IPR Law Enforcement (24 March 2006); and the Provisional

and judicial decisions are difficult to enforce owing to the lack of appropriate infrastructure and sufficient manpower.[247] Further, IPR-related cases must meet minimum value thresholds to be considered for criminal prosecution.[248] These thresholds may take the form of, *inter alia*, value of the goods, illegal gain or amount of illegal copies. Although these thresholds are lowered in some cases, the authorities state that they have no intention of removing them.[249] In addition, there is some doubt as to whether fines and other penalties are sufficient to deter IPR violations.

Table III.14
Enforcement of intellectual property rights, 2004-06

	2004	2005	2006
Patents			
Number of disputes	1,455	1,597	1,270
Number concluded	1,215	..	973
Copyright			
Number of disputes	9,691	9,644	10,559
Number concluded	..	9,380	10,344
of which:			
imposition of fines	7,986	7,840	8,524
cases transferred to judicial agencies	..	366	235
Trade marks			
Number of disputes	51,851	49,412	50,534
of which:			
trade mark infringements	40,171	39,107	..
other	11,680	10,305	..
cases transferred to judicial agencies	96	236	252
value of fine (Y million)	268	342	398
IPR cases handled by Customs at the border	1,051	1,210	2,475
Value (US$ million)	11.2	13.3	27.2

.. Not available.

Source: Data provided by the authorities.

243. Customs is in charge of enforcing intellectual property rights at the border. Since the previous Review of China, customs authorities have been increasingly involved in seizures and investigations (*ex officio*) of infringing goods. The number of cases of suspected IPR infringing imports and exports handled by Customs doubled from 2005 to 2006 (Table III.14). Further, Customs strengthened efforts in IPR protection at the border through a five-month campaign from October 2007, aimed at IPR-infringing exports to the EC, Hong Kong, China, the United Arab Emirates, and the United States.

244. China has also tried to increase public awareness of IPR protection, and various authorities launched a series of campaigns. On 30 March 2006, several government agencies including the National Copyright Administration and MOFCOM jointly issued a notice that required computers

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Regulation on Better Connection in the Fight Against Crimes Involving Infringement on Copyrights (26 March 2006).

[247] OECD (2007b).

[248] Criteria on minimum thresholds are specified under the Judicial Interpretation of the SPC on Issues Concerning Application of Law in Dealing with Criminal IPR Cases, issued by the Supreme People's Court (SPC) and the Supreme People's Procuratorate (SPP).

[249] For example, the Supreme People's Court and the Supreme People's Procuratorate jointly issued an interpretation in April 2007, which lowered the threshold for criminal charges against piracy set in 2004; organizations and individuals selling 500 pirated discs, instead of 1,000 in the 2004 rule, can receive a three-year sentence (ChinaCourt online information. Viewed at: http://www.chinacourt.org/flwk/show.php?file_id=117517 (in Chinese) [12 February 2008]).

sold domestically to be loaded with a copyright operating system. Further, in June 2006, the National Copyright Administration launched a three-month campaign to stop the illegal preloading of software onto computers, so that all computers used by the Government and SOEs are loaded with legal software. SIPO has been publishing annual Action Plans on IPR Protection since 2006, to provide guidance on IPR enforcement. By end-August 2006, 50 IPR service centres had been set up all over the country with the hotline "12312". A Chinese-English bilingual IPR protection government web portal was launched by SIPO in 2006.

IV. TRADE POLICIES BY SECTOR

(1) INTRODUCTION

1. China's ongoing reform of its trade and investment regime remains an integral part of its structural reform strategy. Having concentrated much of its past efforts on manufacturing, which tends to be capital-intensive, the Government's attention is now turning to services (and, to a lesser extent, agriculture), which tend to be much more labour-intensive than manufacturing. If sufficiently competitive, services have the potential in the long run to generate new jobs for surplus labour currently located in rural areas. Progress has been especially noteworthy in the financial services sub sector (including banking), whose development is essential for the establishment of a smooth-functioning capital market, which can contribute to a more efficient allocation of investment across all sectors of the economy and thereby to improved productivity and growth.

2. One of the main changes concerning agriculture has been the shift from taxing the sector to supporting it. Most agricultural taxes were eliminated in 2006, and farmers have been provided with financial support (since 2004). Nonetheless, agriculture's contribution to GDP has continued to decline (from 13.4% in 2004 to 11.7% in 2006). With agriculture accounting for some 40% of total employment in 2006, labour productivity is barely one fifth of the level in the rest of the economy, and there is still a considerable surplus of labour in the sector. As a result, average rural incomes have fallen further behind the urban average, thus widening the gap between rural and urban living standards. The authorities are well aware of the need to further develop rural areas, raise productivity in the sector, and improve farmers' welfare. Against this background, the rural reform process has continued as stipulated in the Eleventh Five-Year Plan (2006-2010) through the implementation of a series of measures to increase productivity including improved infrastructure, production technologies, and training (for farmers). The plan also encourages the movement of rural labour, and reiterates the Government's intention to continue increasing the support granted to agriculture through direct transfers and subsidies.

3. Agricultural policy has traditionally been aimed at ensuring an adequate supply of food at stable prices. To meet this goal, procurement, distribution and marketing restrictions are used in addition to measures such as price controls and import and export restrictions. China's average MFN tariff on agricultural products (WTO definition) remained unchanged at 15.3% during 2005–07. Although tariff rate quotas (TRQs) on some edible oils were eliminated, those for some cereals, sugar, mineral and chemical fertilizers, and wool and cotton have been maintained. China continues to use state trading to manage trade of some products. Despite liberalization, direct management remains an important instrument of Chinese policy making. In particular, the domestic prices of some products are subject to controls, principally to maintain the stability of supply and prices. Furthermore, to achieve a high degree of grain self-sufficiency, and thus food security, procurement of grain is, to some extent, controlled by the Government.

4. Since the previous review, there have been no major changes in policies concerning China's energy sector, which continues to be characterized by a high level of state ownership, regulation and limited competition. China is the second largest energy user in the world. Moreover, it emits the second largest amount of greenhouse gases, mostly due to the use of coal, which continues to account for some 70% China’s energy production, and to the increasing number of cars on the roads. China’s rapid growth and the economy's high energy intensity is also putting considerable upward pressure on world demand for energy, particularly on oil, and thus energy prices. While China's high energy intensity may be partly explained by the share of industry (which tends to be relatively energy intensive) in GDP (43% in 2006), it is also undoubtedly due to the insufficiently market-oriented price mechanism for oil, coal, electricity, and natural gas, which sets artificially low prices and, as a

consequence, leads to a waste of energy, to the detriment of the environment. Hence, one of the key compulsory targets in the Eleventh Five-Year Plan is a 20% reduction in energy intensity by 2010. China's energy policy is largely aimed at self-sufficiency; it also allows to supplement domestic supplies of primary energy through imports and by encouraging state-owned enterprises (SOEs) to invest in energy-rich countries, and more recently through the establishment of strategic oil reserves to stabilize domestic supply and prices. China's markets for energy products are at different stages of reform. While the Government has, in general, adopted a more liberal approach to economic policy, it regards energy as a strategic commodity and has therefore adopted a gradual approach to reforming the sector. As a result, trade restrictions and regulatory barriers protect domestic producers from international competition. However, it remains to be seen whether such a gradual approach to reform will be sufficient to address the challenges the sector faces, especially the compatibility of China's large and rapidly growing energy needs with protection of the environment.

5. Reflecting greater liberalization compared with other sectors of the economy, manufacturing, particularly by FIEs, and resulting exports, has been the main driving force behind China’s industrialization and rapid economic growth in recent years. Manufacturing accounted for 92.4% of China's merchandise exports in 2006; it is also the source of much of China's processing trade, which is dominated by FIEs. By developing-country standards, tariffs on manufactured goods are low, with a simple average applied MFN tariff of 9.7% in 2007 (9.8% in 2005).[1] Nonetheless, the allocation of vast amounts of domestic investment has been distorted by, *inter alia*, incentives and other forms of assistance accorded largely to manufacturing (rather than services or agriculture), where foreign-invested enterprises (FIEs) have hitherto been favoured over domestic private firms. A range of other measures also remain in place with a view to controlling domestic production of key industries and assisting or managing their growth, although industries subject to government intervention (e.g. automobiles) have been found to be less efficient than those with less government intervention (e.g. computer manufactures). For example, VAT rebate rates were adjusted during the period under review to, *inter alia*, reduce exports of certain products (e.g. highly polluting and highly energy-consuming products); as a consequence, the domestic prices of these products tend to be lower than would otherwise be the case, thereby possibly assisting their downstream processing. At the same time, rebate rates on some other products were increased. Furthermore, the State "guides" investment into or out of certain sectors or activities. For example, the Government employs measures/practices (including "guidance" to banks as regards financing) to discourage investment in the sectors that are contrary to state policy, including "unchecked investment" in heavy industries "with high energy consumption and pollution", such as the coke, calcium carbide, and iron alloy industries, or where production capacity is considered to be excessive.

6. While the Government's intention is to open the services sector further to private and foreign participation as a means of boosting growth and providing alternative employment to agriculture, the pace of liberalization has been slower than that for manufacturing. As a result, most services sectors are still subject to a high degree of state control and, therefore, lack of competition.

7. China's capital market remains heavily dependent on the banking system, which is still under-developed and relatively inefficient,. Banks have lent mainly to SOEs rather than to domestic private firms (partly due to the latter's lack of collateral); moreover, lack of access to external financing through the capital market has resulted in domestic private enterprises relying heavily on retained earnings (or funds raised from family and friends). Against this background, banking reform has continued, including the introduction in December 2006 of new regulation allowing foreign-funded banks (FFBs) to offer RMB business to Chinese nationals, with no geographical restrictions. However, stringent qualification requirements still apply to FFBs; these include high minimum asset

[1] The tariff for manufacturing is based on ISIC Rev.2. In Chapter III, the tariff is based mainly on HS.

requirements on sole or controlling shareholders, high minimum paid-in capital amounts, restrictions on the supply of credit-card services, and restrictions on the business scope of foreign banks branches. The stock market has developed quickly during the period under review, prompted by several reforms. For example, institutional investors have been allowed to play an increasing role, by increasing the quota allocations in the qualified foreign institutional investor (QFII) programmed, encouraging the development of investment funds, and the participation of insurance companies and social security funds. Foreign investment is limited to 33% in joint-venture (JV) securities companies and to 49% in JV fund management companies. Restrictions on foreign participation also remain in the insurance sector, where foreign companies are not allowed to own more than a 50% equity interest (directly or indirectly) in a Chinese-foreign JV company undertaking life insurance. Other regulatory requirements add to the difficulty in expanding foreign presence, such as geographical restrictions to carry out their business.

8. Since 2006, China has issued various regulations and rules concerning telecommunications, including those aimed at clarifying licensing requirement for foreign investment in value-added telecommunication businesses, and the stipulation that e-mail service providers must obtain approval or register before actually providing the service. Prices have been liberalized considerably, except for a few items, such as monthly rental charges and local call charges, and foreign participation limitations exist.

9. Limitations on foreign participation still exist in maritime and air transport, legal and accounting, tourism, and postal services. As an important step in the reform of the latter, the China Post Group Corporation was formally established on 29 January 2007, marking the formal separation of business activities from the administrative functions of the State Postal Bureau.

(2) AGRICULTURE

(i) Features and market developments

10. China has evolved into an industrialized economy in which the contribution of agriculture to GDP continues to decline; it fell from 13.4% in 2004 to 11.7% in 2006. At the same time, employment in the sector dropped slightly, from 42.7% in 2004 to 39.9% in 2006 (latest year for which data were available).[2] Consequently, labour productivity in agriculture is barely one fifth of the level in the rest of the economy, with the result that average rural incomes have fallen further behind the urban average, thus contributing to the widening gap between rural and urban living standards.[3] Low labour productivity in agriculture reflects, *inter alia*, its high labour intensity and the lack of mechanization.[4] To raise labour productivity in agriculture, and therefore farm incomes, rural areas need to be further developed, farms mechanized, and more labour (especially surplus) shifted from agriculture to industry and services, where labour productivity and therefore earnings are on average much higher.

11. Against this background, the rural reform process has continued, and the Government intends to continue the reform to improve farmers' welfare and mitigate rural-urban disparities under the Eleventh Five-Year Plan (2006-10), which calls for the creation of a "new socialist countryside". To facilitate the movement of labour, in 2006, the State Council promulgated Certain Opinions on Solving the Problems of Rural Workers, which called for the integration of the urban and rural labour markets. According to the Opinions, all regions and departments concerned would have to eliminate

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[2] Data include employment in forestry and fishing.

[3] In 2006, per capita urban household income was Y 11,759 while rural household income was Y 3,587.

[4] China's agriculture still has a high level of irrigation.

any discriminatory regulations and restrictions in regard to hiring rural workers in urban areas, and remove the administrative approvals and administrative fees charged to enterprises employing rural workers.

12. In general, the land tenure system, by which the State owns all land, remains unchanged. However, China's Property Law of 2007 formalizes the individuals' right to use the land. Under the law, farmland continues to be owned by village collectives, which extend contracts to individual households, but the law clarifies rural dwellers' rights and provides firmer legal guarantee of their land tenure rights. According to the authorities, at present the majority of peasants have rural land tenure certificates, which grant them long-term guaranteed rights to exploit agricultural land.

13. In 2005, crops accounted for 50.8% of total agriculture production, while livestock and fisheries accounted for 32.2% and 10.4%, respectively. Even though grain continues to be China's most important crop, there has been a shift in production from the traditional staples (i.e. rice and wheat) to corn and to other more profitable crops such as fruits and vegetables.[5] This is in line with China's comparative advantage, the change in economic policies, which allows farmers to choose what they plant, and also a response to changes in demand for food as incomes increase in China. There has also been a shift in focus from food to feed in line with changes in food consumption patterns, with demand shifting from staple products, to meat and other animal products. Output of meat increased from 61.3 million tonnes in 2000 to 80.5 million tonnes in 2006 (72.4 in 2004); milk production increased during the same period, from 11.2 million tonnes to 33.0 million tonnes. These changes in turn stimulated demand for feed grains, including corn.[6]

14. Exports of agricultural products grew by 13.3% and imports by 14.3% in 2006. However, the contribution of agriculture to total trade (i.e. exports plus imports) continued to decline, reflecting an increase in trade in other areas. China is a net importer of agricultural products: imports of agricultural raw materials grew by 21.5% in 2006. Imports of cotton, China's second most important agricultural import after oil-bearing crops (mainly soybeans), continued to show impressive growth in 2006 (more than 50%). China is the world's largest producer and importer of cotton. In 2006, some 20% (22% in 2004) of China's agricultural imports originated in the United States. Fish and horticultural products, China's major agricultural export products, which in 2006 accounted for 27.5% and 27.3% of total agricultural exports respectively, have also grown substantially since 2004 by 35% and 45.2%. China's major market for agricultural exports continues to be Japan, which accounts for 26.3% of total agricultural exports.[7]

(ii) Policy objective and administration

(a) Policy formulation, and institutional and legal framework

15. There seem to have been no changes to the institutions that formulate and implement agricultural policies. At least 16 institutions are in charge of agriculture-related issues; coordination amongst these agencies is difficult because their functions often overlap.

16. The main laws regulating the sector do not seem to have changed since 2004. A new law was recently enacted to ensure the quality and safety of agricultural products, protect public health and

[5] The percentage change in production of 2006 over 2000 was -2.8% for rice compared to 176.9% for fruit (National Bureau of Statistics of China (2007)).

[6] Production of corn increased from 106 million tonnes in 2000 to 145.5 million tonnes in 2006 (National Bureau of Statistics (2007)).

[7] UNSD Comtrade database (2006) (SITC Rev 3).

promote the development of agriculture and the rural economy[8] (Chapter III(4)(v)(b)). However, specific decrees, notices and regulations are issued by the State Council and other administrative bodies of the Central Government on a yearly basis to implement specific policies.

(b) Policy objectives

17. The Government's key objective in the agriculture sector, as announced in the Eleventh Five-Year Plan, is to build a "new socialist countryside". This will involve, *inter alia*, a substantial increase in financial support for agriculture and rural development aimed at increasing farmers' incomes (Box IV.1). The plan also calls for the establishment of a mechanism for the industrial sector to support agriculture, and for cities to support the countryside. However, the traditional objectives of attaining food security, and of maintaining a stable domestic production to protect farmers' interests have not been dropped.[9]

Box IV.1: Objectives for agriculture in China's 11th Five-Year (2006-10) Plan

The key objective of the 11th Five-Year Plan as regards agriculture is to "build a new socialist countryside". The policies outlined in the plan are aimed at promoting agricultural development and raising farmers' incomes, by:

Increasing productivity in the agriculture sector through: better land management; improving the quality of livestock, poultry and aquatic products; introduction of modern production technologies; improving extension services; and reform of the rural circulation system.

Increasing farmers' incomes through: the development of agric-industry; trade promotion; better managed agricultural enterprises; the creation of co-operatives; a further increase in subsidies for grain, for cultivating improved crop strains, and for purchasing agricultural machinery and tools; and the elimination of any remaining fees or charges imposed on farmers.

Improving services in rural areas through: increased investment in basic infrastructure to ensure an adequate supply of water, availability of paved roads, electrification of rural China, telephone and internet access, and creation of a rural healthcare system.

Improving farmers education through: enforcing the nine-year compulsory education in rural areas; elimination of tuition and incidental fees; and training for farmers.

Increasing public and private investment in rural areas through: an increase in transfers from the central to local governments; and the development of an appropriate, stable, and effective financial system so that private funds can flow into agriculture.

Deepening overall rural reform through: improvement of the household contract responsibility system; reform of public institutions at the town and townships levels; and improvement of fiscal management systems at the county and township levels.

Source: 11th Five-Year (2006-10) Plan.

18. In 2004, China entered a new era in its approach to agricultural policy, as it began to subsidize rather than tax agriculture. China introduced direct subsidies to farmers, began to phase out agricultural taxes, started subsidizing seed and machinery purchases, and increased spending on rural infrastructure. The new policies reflect China’s new view of agriculture as a sector that has lagged behind. During 2005 and 2006, exemptions of the agricultural tax were extended through the whole of China and finally eliminated, while subsidies were made more widely available.

[8] Agricultural Products Quality and Safety Law, 29 April 2006.
[9] State Council No. 1 Document 2007.

(iii) Policy instruments

(a) Border measures

Measures affecting imports

19. Agricultural products (WTO definition) are, with the exception of some poultry parts (HS 07), subject to *ad valorem* applied tariff rates. The average applied MFN tariff on agricultural products (WTO definition) has not changed since 2005, it remains at 15.3%, the same level as the average bound tariff rate.[10] Tariffs on grain (33.9%), sugar (29.9%) and tobacco (26.9%) still benefit from higher than average protection. Lower tariffs continue to apply to crops in which China has an apparent comparative advantage, such as fruits and animal products.

20. Imports of agricultural products are subject to VAT. The rate levied on agricultural products remains at 13%, 4 percentage points lower than the general VAT rate. Agricultural products produced and sold directly by small-scale farmers are still exempt from VAT.

21. In 2007 tariff-rate quotas (TRQ) applied to grains, sugar, wool, cotton and some fertilizers, covering 45 tariff lines at the eight-digit level (down from 55 lines in 2005).[11] In 2006, China eliminated the TRQs on vegetable oils (HS Chapter 15 soybean oil, palm oil, and rapeseed oil) implementing a tariff only arrangement instead. Imports under TRQs, with the exception of sugar and cotton, remain low and quotas are generally unfilled (Table AIV.1)

22. The quota allocation process is unchanged and is still managed by the same agencies (Chapter III(1)(iii)).[12]

23. The Government still has some influence on imports (and exports) through the state-trading system, which remains in place to ensure the stable supply and price of specific products. Agricultural products subject to state trading comprise grains (corn, rice, and wheat), sugar, tobacco, and cotton. Trade of vegetable oils was liberalized in 2006 when the Tress were removed. Chemical fertilizers are still subject to state trading. With the exception of tobacco, the aforementioned commodities are also subject to TRQs. China's TRQ system includes criteria for allocating part of the quota to a state-trading enterprise (STE) and part to a private enterprise; however, a substantial amount of the quota is still allocated to STEs and remains largely unchanged since 2005.[13] Imports of tobacco remain under state monopoly.

24. Agricultural imports remain subject to licences and import prohibitions. Automatic licensing is in place to monitor imports; non-automatic import licences are to fulfil China's international obligations and to administer TRQs. Goods imported under TRQs are subject to non-automatic licensing. Automatic licensing covers some meat products, edible oils, and tobacco products (33 tariff lines at eight-digit level). The general import prohibition maintained under Article XX, which applied to products such as opium and ivory, has been extended to include, *inter alia*, human hair and bones.

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[10] Including available AVEs, the average applied MFN tariffs for agricultural products (WTO definition) and non-agricultural products in 2007 were 15.2% and 8.8%, respectively.

[11] The 45 lines are included in HS Chapters 10 (wheat and meslin, maize, rice), 11 (cereal flour other than wheat and meslin, cereal groats), 17 (cane of beet sugar), 31 (mineral chemical fertilizer) and 51 (wool and waste of wool). Though fertilizer is not an agricultural product according to the WTO definition, it is mentioned in this section because of its importance as an input.

[12] WTO (2006).

[13] Data provided by the authorities indicate that in 2007, STEs had the right to import 90% of the wheat quota, 60% of corn, 50% of rice, 70% of sugar, and 33% of cotton.

A number of agricultural imports, including meat products, raw hides and skins, plants used to make pharmaceuticals and perfumes, molasses, beverages (mineral water, alcohol and spirits), and yarn waste (46 lines at the eight-digit level) are not granted bonded status to be used as inputs for exports under "processing trade".

Measures affecting exports

25. In 2007, bones and horn–cores, powder, and waste thereof (HS 0506) and raw hides and skins of goats (HS 4103.1010) continued to be subject to export taxes of 40% and 20%, respectively. Deglutinated bones (HS 0506.9090) were subject to an interim export duty rate of 0% for 2007.

26. The agricultural exports subject to state trading are cotton, rice, maize, and tobacco.[14] These products are still subject to export quotas; part of these quotas, with the exception of tobacco, can also be exported by private enterprises, with approval. The requirements for an enterprise to obtain approval were not made available to the Secretariat. State trading for exports is in place to ensure a stable domestic supply of strategic commodities and in turn ensure price stability.

27. In 2007, general export prohibitions applied to eight agricultural products.[15] Some 22 agricultural products (22 lines at the HS 8-digit level) including products of animal origin, beverages (e.g. mineral water and alcoholic spirits), raw fur skins, and silk-worm cocoons if processed "under processing trade" may not be exported. According to the authorities, these prohibitions are in place to reduce exports of products using large amounts of raw materials, low value added goods, or energy-intensive and polluting products.

28. China continues to impose global (i.e. irrespective of destination) and destination-specific export quotas. It seems that the agricultural products subject to export quotas remain largely unchanged since the last review; in 2007, global export quotas applied to cotton, grains (maize, rice, and wheat) and tea, some of which are still subject to state trading.[16] Destination-specific quotas remain in place for exports of live cattle, live swine, and live chicken to the Special Administrative Regions of Hong Kong and Macao. Non-automatic licences are used to distribute these quotas. Other exports, including meat products (31 tariff lines at the HS eight-digit level) are subject to automatic licensing for statistical purposes.

29. China has notified to the WTO that it did not maintain or introduce any export subsidies during 2004-06.[17]

30. Exporters of agricultural products are entitled to VAT rebate at the time of exportation; rebates vary according to commodity and are often lower than the statutory VAT rate, which results on a levy on exports. The VAT on agricultural goods is 13%, but the "usual" export rebate rate for agricultural goods is 5%.[18] Export rebates for products containing agricultural inputs were increased in 2007 from 5% or 11% to 13% as to promote the use of agricultural products (Chapter III(3)(iii)).

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[14] Information provided by the authorities, since no notifications have been made by China in regards to state trading since 2003.

[15] These products are ivory, bezoar, musk, liquorice roots of the kind used in perfumes, some plants of medicinal use and, blackmoss (a seaweed).

[16] Coal, cotton, maize and rice are still subject to state trading.

[17] WTO documents G/AG/N/CHN/6, 5 April 2005; G/AG/N/CHN/10, 25 October 2006; and G/AG/N/CHN/12, 14 September 2007.

[18] Information provided by the authorities.

(b) Internal measures

Taxation

31. China started to gradually phase out agricultural taxes in 2004. Since then, four taxes levied on agricultural products have been eliminated: the Agriculture Tax was eliminated in January 2006[19]; the Special Agricultural Tax was replaced by a new tax, which is only levied on tobacco leaves[20], the Animal Husbandry Tax and the Animal Slaughtering Tax were eliminated in 2005 and 2006, respectively.[21] At present, the taxes levied on agricultural products are the tobacco leaf tax (20% of the purchase price for tobacco leaves), the VAT (13%), the deed tax (levied when a land contract is transferred), and the tax on the use of cultivated land or farmland occupation tax (levied when arable land is used for non-agricultural purposes).

32. Most of the fees and charges levied on farmers at the sub-provincial level have also been removed. Since 2006, farmers have only had to pay fees for water and electricity; village levies are still in place but are being reviewed. Total levy collection in 2006 amounted to Y 20 billion, down from Y 43.5 billion in 2004.

33. Agricultural taxes were a major source of revenue for local governments. Thus, to ensure that governments at county and township levels continue to have a stable source of revenue, transfers from the Central Government have increased as compensation for lower sub-national tax revenues. Data provided by the authorities indicate that in 2006, the Central Government transferred Y 75.1 billion to local governments, of which Y 41.9 billion was to compensate for the removal of the Agriculture Tax and the Special Agriculture Tax. There have also been transfers from the provincial and county levels to the townships. The tax reform has been successful: local governments have not had to impose fees to compensate for their reduced fiscal revenues, due to the efforts by governments at the different levels in regards to local public finance. However, despite the removal of most taxes and fees related to agriculture, tax collection in the sector has continued to rise, reaching Y 108.4 billion in 2006 up from Y 90.2 billion in 2004.

34. According to the authorities, the agricultural tax reform has created a fairer tax regime by reducing "farmers' burden", which in turn promotes the creation of a "harmonious society", and have also translated into an increase in farmers' disposable incomes. The latter is in turn expected to stimulate investment in the sector, and consumption.

Support to agriculture

35. China has made no notifications to the WTO Agriculture Committee regarding the support given to the agriculture sector during the period under review[22]; however, some agricultural support programmes were included in China's latest notification to the Committee on Subsidies and Countervailing Measures (Chapter III(4)(i) and (ii)).[23] Support for agriculture has increased since

[19] Decision to Nullify the Agriculture Tax Regulations, President Order No. 46, 29 December 2005.

[20] On 17 February 2006, the State Council nullified by means of Order No. 459 the Regulations of the State Council on Levying Agriculture Tax on Proceeds from Special Agricultural Products, and a separate Provisional Regulations on Tobacco Leaf Tax was formulated (State Council Order No. 464 on 28 April 2006).

[21] Provisional Regulations on Animal Slaughtering Tax promulgated by the former Government Administration Council was annulled by State Council Order No. 459.

[22] In 2006, China notified the support given to agriculture during 1999-01 (WTO document G/AG/N/CHN/8, 31 March 2006). More recent notifications are not available; according to the authorities, this is due to technical issues regarding the existing Chinese data.

[23] WTO document G/SCM/N/123/CHN, 13 April 2006.

2004: total expenditure increased from Y 236 billion in 2004 to Y 317 billion in 2006, the latest year for which such data were available. Support includes resources for agricultural production and for capital construction, science and technology promotion funds, and rural relief funds. Expenditures on a "price subsidy" also increased from Y 79.6 billion in 2004 to Y 138.8 billion in 2006.[24]

36. Direct subsidies for grain producers were introduced nationwide in 2004. As this programme is administered at the provincial level, the amount of the subsidies, the standards, and the procedures for granting the subsidies vary across the country. In 2006, the total direct grain subsidy amounted to Y 14.2 billion up from Y 11.6 billion in 2004.[25] The authorities believe that these subsidies have contributed to an increase in grain production and to narrowing the income gap between urban and rural areas.[26] However, it would appear that they have had only a minor impact on production and rural incomes. Moreover, it is difficult to assess the overall impact of these programmes since they are applied in different ways in the different provinces and regions.

37. Since 2004, subsidies have also been available to purchase improved crop strains, agricultural machinery, and tools. In order to increase mechanization, the subsidy to purchase agricultural machinery and tools amounted to Y 800 million in 2006 (up from Y 300 million in 2005). According to the authorities, in 2006, an additional subsidy (Y 12 billion) was granted for grain producers to be "compensated" for price increases of diesel, fertilizer, and other inputs.

38. The State Council's No. 1 Document (2005) stated that China would continue to directly subsidize grain producers, increase subsidies to farmers to purchase improved crop strains, agricultural machinery, and tools, and follow a minimum purchase price policy for rice and wheat in major producing areas. In its 2007 No. 1 Document, the State Council reiterated its support for the agriculture sector.

Price controls and marketing

39. China has progressively liberalized the price of agricultural goods; however, the price of some commodities remains controlled and others are still considered "important reserve materials"[27] and thus subject to some sort of price control (Chapter III(4)(iii)(b)). It seems that as of 2007, centrally set government prices apply only to tobacco, and a minimum procurement price scheme remains in place for rice and wheat in major producing areas.[28]

40. China has liberalized most agricultural markets, but the Government still intervenes to stabilize the market, when deemed necessary. As a result, some controls continue in the marketing of cotton, grain, and tobacco. China's tobacco industry is still subject to a state monopoly, with strict controls over production, marketing, and trade of tobacco products. While the circulation of cotton has been substantially liberalized, it is still subject to controls. For instance, in 2005 the NDRC issued a circular to strengthen the administration of the cotton market, regulating market access and

[24] These "price subsidies" include subsidies to support the prices of grains, cotton, and edible oil.

[25] In 2005, subsidies amounted to Y 13.2 billion.

[26] Production of grain continued to increase, from 441.58 million tonnes in 2004, to reach 442.37 million tonnes in 2006, the latest year for which data were available (National Bureau of Statistics (2007)).

[27] The agricultural products considered key reserve materials are grain, cotton, sugar, and silkworm cocoons. Chemical fertilizers are also considered key reserve materials.

[28] Chinese Government online information, "2007 minimum price of wheat implementation plan". Viewed at: http://www.gov.cn/zwgk/2007-05/29/content-629212.htm (in Chinese) [20 February 2008]; and Ministry of Agriculture online information, "2007 minimum purchase price of early *indica* rice implementation plans". Viewed at: http://www.agri.gov.cngndt/t20080207-969252.htm (in Chinese) [20 February 2008].

prohibiting any further increase of cotton processing, in order to stabilize prices. In addition, a cotton reserve system appears to have been put in place. Purchases of cotton for the reserve are financed by the Agricultural Development Bank of China (ADBC).[29]

41. In June 2004, China announced regulations designed to liberalize grain markets by reducing the state's dominant role. The regulations seem to result from a steady rollback of the monopoly power of state-owned grain bureau over several years. However, the regulations stipulate that the Government can intervene in grain markets when prices are rising rapidly, and that government departments are responsible for ensuring that grain supply and demand is balanced. Thus, it would appear that the governors' grain responsibility system, established in 1995, is still in place. Central and local authorities maintain grain reserves to ensure food security. Local grain bureaux, in consultation with central or local governments, try to stabilize markets by buying or selling as needed.

(3) ENERGY

(i) Introduction

42. There have been no major changes in China's energy sector since the previous review. China's rapid growth and the economy's high energy intensity has translated into a high demand for energy to feed the growing industry, and to meet growing consumer demand. China is the second largest energy user in the world, accounting for some 15% of the world's energy consumption.[30] Its energy consumption continues to be overwhelmingly dominated by fossil fuels, particularly coal, which accounted for 69.4% of the total in 2006.[31] This makes China the world's largest consumer of coal, accounting for more than 30% of global coal consumption.[32] China is also the world's second largest consumer of petroleum products, which has put considerable pressure on world demand for oil. In 2006, oil provided 20.4% of China's energy consumption. The other sources are hydro-power, natural gas (3.0%), and nuclear and wind power (together 7.2%).[33]

43. The increasing need for energy and environmental concerns has shaped China's energy policy. Traditionally, the policy had focused mainly on ensuring an adequate supply of fossil fuels to meet the growing domestic demand. However, more recently, due to China's increasing reliance on imports to supply domestic demand and the growing concern about environmental issues[34], policies have also focussed on diversifying energy sources, developing renewable energy sources, reducing the energy intensity of the economy, and safeguarding the environment. A Renewable Energy Law, which entered into force on 1 January 2006, provides for a series of incentives such as subsidies, tax incentives, and low-cost loans for the development of renewable energy projects. The Eleventh Five-Year Plan (2006-10), sets compulsory targets, requiring the entire country to reduce energy intensity by 20% by 2010.[35] Energy consumption standards have also been set for each province. In 2004, the NDRC had already formulated a Medium and Long Term Energy Conservation Plan to encourage energy conservation and reduce pollution. The Energy Conservation Law of 1998 is being amended.

[29] Information provided by the authorities.
[30] Andrews-Speed (2006).
[31] National Bureau of Statistics (2007).
[32] Khan and Frame (2007).
[33] National Bureau of Statistics (2007).
[34] China emits the second largest amount of greenhouse gases in the world, most of it due to the use of coal, which continues to account for some 70% China’s energy production.
[35] The amount of energy consumed in 2006 to produce a yuan’s worth of output of goods and services needs to be reduced by 20% by 2010.

44. One of the major problems in the energy sector is that policy-making is piecemeal and uncoordinated, and implementation, supervision, and regulation are weak; hence, they do not match the challenges facing the sector.[36] Policy-making and the regulation of the energy sector is scattered between several institutions, including the NDRC, the Ministry of Land and Resources (MLR), MOFCOM, and the State Administration of Work Safety (SAWS).[37] The Energy Bureau at the NDRC created in 2003, continues to be the central authority responsible for China's overall energy-related matters.[38] In an attempt to deal with institutional weaknesses in the sector, the National Energy Leading Group (NELG) was created in May 2005 as a high-level council and coordination body in charge of the energy sector. The NELG reports directly to the State Council. The National Energy Leading Group Office, in charge of the routine work of the NELG, is housed in the NDRC.[39] The creation of this group seems to have had no impact on policy formulation and implementation.

45. There is no comprehensive law and no real regulatory framework for the sector. The legislative framework continues to be provided by regulations and administrative documents rather than by laws. However, to foster further development of the sector and encourage private investment and competition, an appropriate legal framework would need to cover all areas of the energy sector and define the roles, rights, and obligations of the different players. In 2006, the authorities started drafting an energy law, to regulate the oil, electricity, coal, and natural gas sub sectors.[40]

46. Reform of the energy markets, including the pricing mechanism, which seems to have stalled since 2005, is another of China's major challenges in this sector. Market-based price signals to energy investors and users will help bring about needed changes in the capital stock and in usage patterns, and hence result in optimal use of resources. At present, prices of energy products are providing the wrong signals to consumers because they do not include the social costs of environmental externalities and because they favour increased supply over efficient use. Moreover, measures such as capping of oil product prices in 2005, which prevented international prices from affecting domestic markets, and not allowing the prices of coal and electricity to increase, do not provide correct signals to energy sellers, buyers, consumers, and investors, thereby increasing waste and misallocation.

(ii) Key sub-sectors

(a) Petroleum

47. China has been the world's second largest oil consumer since 2003, and demand for oil has continued to rise. In 2005, total domestic consumption of crude oil was 300.9 million tonnes (up 4.7% from 2004); demand continued to increase in 2006. However, domestic production of crude oil has not kept up with demand, hence the increase in imports of crude oil. In 2006, China produced some 184.8 million tonnes of crude oil (up 1.9% from 2005) and imported 145.2 million tonnes (up

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[36] SERC, Ministry of Finance, World Bank (2007).

[37] The Ministry of Land and Resources (MLR) is responsible for regulating mineral reserve exploration and exploitation. MOFCOM deals with trade related issues and the SAWS is responsible for safety related issues in the energy sector.

[38] In 2003, the Ministry of Energy, created in 1988 to oversee the development of the coal, oil, electricity and nuclear energy sectors, was dismantled, and the Energy Bureau was set up. The NDRC, through the Energy Bureau is in charge of national strategies and policies, of setting prices, and of approving overseas projects.

[39] Chen (2006), pp. 151-172.

[40] The drafting group comprising experts and officials from15 different government entities, including SERC, NDRC and the Legislative Affairs Office of the State Council, was set up on 24 January 2006.

3.1%) accounting for 41.6% of domestic consumption, 14.5% more than the previous year.[41] Imports of crude and processed oil products accounted for 10.6% of total merchandise imports in 2006.[42]

48. There have been no major changes with regard to the legislation and government agencies related to the oil sector since 2005.[43]

49. Oil security continues to be at the core of China's energy strategy. This is to be attained through the further development of the domestic market, increasing exploration efforts, developing alternative energy sources, building national oil reserves, and expanding outward investment (in the oil sector). China started to build a strategic oil reserve (SOR) system in 2004, in an effort to better insulate the country from supply shocks or steep international price fluctuations.[44] The Eleventh Five-Year Energy Plan (2006-10) indicates that China will continue to expand its SOR by increasing government oil reserves (at central and provincial levels), establishing a compulsory reserve system for enterprises, and encourage the development of commercial oil reserves. The National Oil Reserve Centre (NORC) will be set up to manage the existing SOR.[45] Securing future energy supplies is a key component of China's energy and foreign policy. As a result, the Government has encouraged state-owned enterprises to secure production and exploration rights abroad. The 2007 Catalogue Guiding Outbound Investment lists the oil rich countries in which Chinese companies should try to invest.[46]

50. There have been no changes to the major companies operating in the oil sub sector since 2005: despite attempts to promote competition, four companies continue to dominate. The two major companies, PetroChina and China Petrochemical Corporation (Sinopec), are both vertically integrated; they compete with each other.[47] They continue to operate alongside China National Offshore Oil Corporation (CNOOC), specialized primarily in offshore oil production, and China National Chemicals Import and Export Company (Sinochem Corp.). PetroChina and Sincopec are listed in international stock markets. A new state-owned company, Shaanxi Yanchang Petroleum Group Co., was created in 2005; it did not upset the dominant position of PetroChina and Sinopec. China's first private-sector company, the Great Wall Petroleum Group, was also founded in 2005.[48]

51. In 2005, the State Council issued guidelines allowing private companies to invest in previously restricted sectors dominated by SOEs, like the oil industry. The Catalogue of Encouraged Foreign Investment Industries of 2007 also allows for foreign investment in this area. It seems, however, that oil exploration continues to be dominated by SOEs. Moreover, the procedures for obtaining approval, licence, and permission to explore have not been provided to the Secretariat, and it seems that no new company has been granted the right to explore since 2005.

[41] National Bureau of Statistics (2007); and UNSD Comtrade database.

[42] In 2006, imports of petroleum and petroleum products reached US$84.1 billion, up 41.4% from 2005 (UNSD, Comtrade).

[43] WTO (2006).

[44] A national oil reserve system equivalent to 90 days of net oil imports will be built over a period of 10 to 15 years.

[45] *Platts Commodity News*, "Chinese think-tank recommends 120-day strategic reserve", 20 July 2007. Viewed at: http://www.uofaweb.ualberta.ca/chinainstitute/nav03.cfm?nav03=62957&nav02=57484&nav01=57272 [22 October 2007].

[46] Industry and Country Catalogue Guiding Outbound Investment (No. 3) of 2007, issued by Ministry of Foreign Affairs, MOFCOM, and NDRC. Viewed at: http://www.sdpc.gov.cn/zcfb/zcfbtz/2007tongzhi/t20070227_118707.htm (in Chinese) [29 October 2007].

[47] PetroChina is the listed arm of China National Petroleum Corporation (CNPC), formerly China's biggest oil producer. PetroChina was established as a joint-stock company with limited liability in 1999, as part of the restructuring of CNPC. CNPC transferred most of its assets and liabilities related to its exploration and production, refining and marketing, chemicals and natural gas businesses to PetroChina.

[48] Bahgat (2007).

52. Private investment is allowed in oil refining, and wholesale and retail of oil products. Foreign competition in the retail of crude and processed oil products has been allowed since 2004. To promote foreign investment, petroleum refining was included in the 2007 Catalogue of Encouraged Foreign Investment Industries. The wholesale market, in compliance with WTO commitments, was opened to foreign competition in 2006. In 2007, MOFCOM issued a series of administrative measures stipulating the requirements for "domestic private" and foreign enterprises to sell and store crude and processed oil.[49] In 2007, 25 private companies were granted the right to sell and store oil products.[50] However, despite the opening of the market, private companies still face difficulties entering the market due to the strict technical requirements. As a result, the role of SOEs in wholesale and retail business remains important; most wholesale and retail companies are still wholly or partially owned by Sinopec and CNPC.

53. Despite efforts to liberalize the sector, imports and exports of crude and processed oil products are still restricted; they are still subject to state trading and automatic licensing. Applied tariffs on crude and processed oil products have remained stable since 2005. The specific tariff on crude petroleum (HS 27090000) was still 0 in 2007; while tariffs on processed petroleum products remained at 5.8%. Exports of crude oil and most exports of processed oil are subject to export quotas and state trading. Imports of waste oils are prohibited (HS 27109100 and 27109900). Some processed petroleum products (e.g. motor and aviation gasoline, aviation kerosene, lamp-kerosene, and light diesel) cannot be imported under bonded status as inputs to be processed under "processing trade", other products such as fuel oils and lubricating oils cannot be exported if processed under the "processing trade" regime.

54. The oil pricing mechanism has remained largely unchanged since 2005. Crude and processed oil continue to be considered key reserve materials of the State and as such are subject to price controls. According to information provided by the authorities the price of crude oil is pegged to the international market. The price of processed oil products is still managed by the NDRC and is indirectly pegged to international price of crude oil. Processed oil products are priced based on the average price of international crude, plus "adequate" profit for refineries as determined by the NDRC, import tariffs and cost of transportation. Oil companies can change the final retail price by up to 8%.[51]

(b) Coal

55. China relies heavily on coal as a source of energy: in 2006, 76.7% of the energy produced was based on coal, compared with 11.9% based on crude oil.[52] China's reliance on coal is because of

[49] Measures for Administration of the Market of Processed Oil (Decree No. 23 of MOFCOM). Viewed at: http://www.mofcom.gov.cn/aarticle/b/c/200612/2006120 3956011.html (in Chinese) [8 November 2007]; Measures for Administration of the Market of Crude Oil (Decree No. 24 of MOFCOM). Viewed at: http://www.mofcom.gov.cn/aarticle/b/c/200612/20061203956629.html (in Chinese) [8 November 2007]; Guiding Manual for Enterprises Operating Processed Oil of 2007. Viewed at: http://english.mofcom.gov.cn/aarticle/policyrelease/gazettee/200706/20070604761910.html [11 November 2007]; and the Guiding Manual for Enterprises Operating Crude Oil of 2007. Viewed at: http://english.mofcom.gov.cn/aarticle/policyrelease/gazettee/ 200706/20070604762554.html [19 November 2007].

[50] Ministry of Commerce, Announcement No. 49, 29 May 2007; Announcement No. 57, 11 June 2007; and Announcement No. 61, 31 July 2007.

[51] *Chinaview*, "Fuel price cuts spark debate on controls", 15 March 2007. Viewed at: http://news.xinhuanet.com/english/2007-03/15/content_5849414_1.htm [1 November 2007].

[52] National Bureau of Statistics (2007).

its relative abundance in comparison to other fuels. China is the world's largest producer of coal, accounting for 37% of world production.[53]

56. China had in the past encouraged the opening of small-scale coal mines to meet the demand of the growing economy. However, the proliferation of illegal coal mines led the Government to change its policy in order to avoid an oversupply, maintain a stable supply, and avoid the "excessive" competition that state-owned mines would have from the private ones. Despite the Government's mandate to close all illegal small-scale mines, many remain; in 2006, 16,500 such mines were in operation. The aim is to close some 6,500 small mines by the end of 2010. Moreover, during 2007 and 2008 the NDRC will not approve any projects with production capacity of less than 30,000 tonnes and will encourage the development of large coal mines.[54] The creation of six to eight major coal producers over five years to replace the small mines is also envisaged. In accordance with the targets set in the Eleventh Five-Year Plan (2006-10) each of these giants is expected to be able to produce at least 100 million tonnes of coal annually. The plan also calls for the modernization of the industry, while ensuring industrial safety and environmental protection.[55]

57. The coal industry in China is regulated, *inter alia*, by the Coal Law of 1996, which has been under revision since 2005.[56] The revised law will take into account safety and environmental issues, and will specify the criteria to open a mine.

58. The Energy Bureau at the NDRC, is responsible for designing the medium and long-term development policies for the coal industry. The Ministry of Land and Resources (MLR) is in charge of regulating the industry, for example, approving and issuing permits and licences for prospecting and exploitation. No information was provided to the Secretariat regarding the requirements and procedures for obtaining permits and licences.

59. Apart from the price of "coal sold to electricity generating companies" (CE), which is still administered or negotiated, other coal prices were liberalized in 1993. The Government has historically set coal prices to be used by power-plants at a much lower level than the "market price" so that electricity retail tariffs in turn remain low. Since 2001, the NDRC has attempted to liberalize the price of CE. However, the price of electricity has remained under tight control, and hence there has been continuous disagreement between buyers (electricity companies) and sellers (coal producers) regarding the price of CE. In 2002, negotiations were introduced to set the price of CE in "coal ordering meetings"; they had little success.[57] As a result, in 2004, the Government introduced a maximum limit within which the price of CE could fluctuate.[58] More recently, it would appear that the NDRC allowed electric companies to change their prices (within a limit) when the price of CE changed.

[53] Eleventh Five-Year Plan of Coal Industry, issued by NDRC in January 2007.

[54] *Government news*, "China speeds up closure of small coal mines", 5 June 2007. Viewed at: http://www.gov.cn/english/2007-06/05/content_637427.htm [1 November 2007].

[55] *Government news*, 2 May 2006, "China aiming to build five to seven big coal groups". Viewed at: http://english.gov.cn/2006-05/02/content_273030.htm [1 November 2007].

[56] Other laws and regulations that regulate the prospecting and exploitation of coal resources include: Mineral Resources Law (1 January 1997), Management Statutes of Exploration Blocks on Mineral Resources (12 February 1998), Management Statutes of Exploration of Mineral Resources (12 February 1998), and Measures for the Administration of Transfer of Mineral Exploration Rights and Mining Rights (12 February 1998).

[57] At the beginning of the year, the Government invites most of the big coal companies and coal consumers, including power, steel, and petrochemical companies, to a "coal ordering meeting" to agree on the amount of coal to be purchased during the year and its price.

[58] For instance, the 2005 CE price could increase by only 8% from the September 2004 price.

60. Tariff protection on coal products is low, with an average tariff of 0.8% in 2007; however imports are subject to automatic licensing. Exports continue to be controlled through state trading and, as such, are subject to quotas and non-automatic licensing. Most coal products cannot be imported under bonded status as inputs for exports under "processing trade".

(c) Electricity

61. China remains the second largest electricity producer in the world. In 2006, its total generating output reached 2,865.7 billion KWh, an increase of 14.6% from 2005.[59] Despite China's efforts to further develop hydropower, and alternative energy sources (such as nuclear power), and cleaner energy sources (such as natural gas), the country continues to rely heavily on coal for power generation and has not changed substantially since 2000. In 2006, some 83% of total electricity was generated with coal, followed by hydropower, which accounted for some 15%. The contribution of nuclear power in China's fuel mix remained low in 2006, at just 1.92%. Demand for electricity has continued to grow due to China's fast economic growth and because of the use of energy-intensive technologies in the industrial sector. In 2006, the latest year for which data were available, consumption of electricity grew by 14.6%.[60] According to information provided by the authorities, supply of electricity has been able to keep pace with demand, and shortages have disappeared. The authorities estimate that this trend will continue, with both supply and demand expected to grow by 11% in 2007. However, according to a report released by China's Electricity Council (CEC) in July 2007[61], power shortages increased across China in the first half of 2007 due to the unprecedented surge in demand for electricity.[62]

62. The authorities noted that the key components of the reform programme approved in 2002, i.e. the unbundling of generation and transmission, the separation of transmission from distribution, the introduction of a competitive system for grid access, and the introduction of competition at the retail level, have "generally" been attained or pilot projects are in place to gradually carry out these reforms. To ensure the success of the 2002 reform, these four key aspects have been included as targets of the Eleventh Five Year Plan (2006–10). Moreover, in April 2007, the State Council issued a plan to implement the electricity reform, to push forward with unbundling of generation and transmission, establish power markets, strengthen the role of regulators, and reduce government involvement in the sector.[63]

Regulation

63. The sector continues to be regulated, *inter alia*, by the Electricity Law of 1995, the Regulations for Administration of Electricity Industry (2005), Regulation on Electricity Supervision (2005), and the Electric Power Regulations.[64] Since 2005, the SERC has formulated a series of

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[59] National Bureau of Statistics (2007).

[60] National Bureau of Statistics (2007).

[61] The China Electricity Council (CEC), established in 1988 with the approval of the State Council, is the most influential industrial organization in the electricity sector. At present CEC, administered by the State Electricity Regulatory Commission (SERC), has around 1,440 power organizations as members.

[62] *China Knowledge*, "Power shortages affect functioning in the economy", 27 July 2007. Viewed at: http://www.chinaknowledge.com/news/news-detail.aspx?id=9466 [3 November 2007].

[63] Implementing Opinions on Further Deepening Electricity System Reform in the Eleventh Five-Year Plan. Viewed at: http://www.chinapower.com.cn/article/1073/art1073603.asp (in Chinese) [28 August 2007].

[64] Laws and regulations viewed online (in Chinese) at: http://www.serc.gov.cn/opencms/export/serc/flfg/gjfl/news/document000001.html; http://www.serc.gov.cn/opencms/export/serc/flfg/gjfl/news/document06.html; http://www.serc.gov.cn/opencms/export/serc/flfg/xzfg/news/document000002.html; http://www.serc.gov.cn/ opencms/ export/ serc/ flfg/ gjfl/news/document03.html [1 November 2007].

complementary rules and regulations to improve electricity supervision.[65] Not much progress seems to have been made in revising the Electricity Law of 1995, which has been in the process of revision since 2003.

64. The bodies that regulate the industry have not changed since the last review of China. The State Electricity Regulatory Commission (SERC), and the Energy Bureau of the NDRC continue to be responsible for regulating the sector. The Energy Bureau formulates the development plan for the sector, while SERC is in charge of regulating the electricity market, formulating laws and regulations, proposing tariffs and adjustments to the NDRC, as well as ensuring orderly and fair competition in the sector.

Generation, transmission, and distribution[66]

65. Generation, transmission, and distribution of electricity continues to be dominated by state-owned enterprises. Though new generation and grid companies have been created in accordance with the 2002 reform plans, they are all majority state owned and under the direct ownership and control of the State-owned Asset Supervision and Administration Commission (SASAC), which is currently responsible for 157 large SOEs, including the State Grid Company (SGC) and the five generating groups.[67]

66. China has been trying to increase competition in power generation since 2002, when the latest electricity reform programme was launched. However, approximately 90% of China's electricity still seems to be produced by state-owned or state-controlled enterprises, despite the number of small power plants in operation throughout China.[68] These plants appeared as a result of the power shortages that have been affecting the high-growth belt in China and have in turn triggered huge investments in relatively small, inefficient, and polluting generating capacity. According to the current environmental policies, during the Eleventh Five-Year Plan period (2006-10), many of these small power plants will be replaced by bigger more environmentally friendly companies. The Government continues to determine the amount of electricity that each generator is to produce[69], and approves the price at which generators need to sell.

67. There have been no significant changes in the transmission and distribution of electricity since the previous Review of China. The separation of transmission and distribution has not yet taken place. There are six state-owned regional networks in charge of transmission and distribution: all except that covering Southern China are subsidiaries of the State Grid Power Company. The Southern Power Grid Company (CSG) covers five provinces in the south and is linked with Hong Kong, China and Macao, China. There is no competition among the two companies, since their markets are clearly defined by region. All power grids are state-owned. The State Grid Power Company is responsible for the operation and development of inter-regional grids.

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[65] These include: the Regulations on Electricity Business Licensing (1 December 2005), the Management Statutes of Permits for Electrical Operation on Network (1 March 2006), the Network Operating Rules (Tentative) (1 January 2007), the Rules on Power Grid Interconnection Dispute Settlement (1 January 2007), and the Measures for Regulation of Grid Enterprise's Full Acquisition of Renewable Energy Generating Electricity (1 September 2007).

[66] This section is based on SERC, Ministry of Finance, World Bank (2007).

[67] These are Huaneng Power Investment Group, Datong Power Group, Huadian Power Group, Guodian Power Group, and China Power Investments Group.

[68] At present, there are about 4,000 power plants with a generating capacity of more than 6,000 kw.

[69] SERC, Ministry of Finance, World Bank (2007).

68. Under each of the regional grid companies, there are provincial grid companies that own and operate their own transmission lines and distribution networks and are responsible for supplying electricity to the end-users. They continue to have monopolies over distribution and electricity sales within a specified area in accordance with the Electricity Law.

69. Electricity trading in China remains low and is mainly carried out under the direction of the Government, which approves prices and amounts traded. Most of the trading continues to take place between the generators and the provincial electricity companies, which act as single buyers and own most of the transmission and part of the distribution grids within the province.[70] Some inter-provincial trade exists and is arranged by the relevant provincial electricity companies and the regional grid company. Inter-regional trading is feasible; however, there are only a few generators that sell electricity outside their own regions, and this needs to be approved by the NDRC. SERC is in charge of developing regional electricity markets; two pilot projects to develop regional electricity markets, one in the north-eastern region of China and one in eastern China were launched in 2007.

Pricing of electricity

70. Electricity prices, including the rates at which the power-generating enterprises sell to the network/grid (on-grid tariffs), the rates charged by a power network/grid to sell to another network/grid (transmission and distribution tariffs), and end-users tariffs are still controlled by the Government. In 2005, the NDRC, the price setting authority, issued a notice and several regulations to reform electricity tariffs; the reform is in progress.[71]

71. China has implemented several pilot projects whereby prices for access to the grid are being set through a bidding process, and the aim is to establish a "competitive" pricing system to set on-grid-tariffs throughout the country. While this system is put in place, the on-grid tariffs set by NDRC prior to 2005 will not be changed. However, on-grid tariffs for power plants that had no agreed tariffs with the NDRC prior to 2005, will be determined on the basis of the economic life span of the project, and according to the principles of "reasonable" compensation and "reasonable" actual benefits. Once the "competitive" pricing system is in place and a "competitive" regional power market is established, the on-grid tariffs for companies participating in the "competitive" market will consist of the capacity charge, which is to be determined by the NDRC, and the energy charge, which is to be determined by the market. The on-grid tariff for electricity generation companies that do not participate in the "competitive" market will be determined by the NDRC on the basis of their economic life span.

72. Transmission and distribution tariffs continue to be fixed by the NDRC and take into consideration factors such as reasonable compensation of cost, reasonable determination of returns, and fair sharing of the burden.

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[70] The provincial governments determine the monthly and annual amounts that can be traded, and the daily schedule of generation is made by the provincial electricity company consistent with the limit.

[71] NDRC online information, Notice on the Printing and Issuing of the Implementing Measures for the Reform of Electricity Tariffs. Viewed (in Chinese only) at: http://txt.newhua.com/txt/10945.htm; Provisional Measures for the Administration of the Electricity On Grid Tariffs. Viewed (in Chinese only) at: http://news.xinhuanet.com/zhengfu/2005-04/11/content_2813032.htm; Provisional Measures for the Administration of the Tariffs for the Transmission and Distribution of Electricity. Viewed (in Chinese only) at: http://news.xinhuanet.com/zhengfu/2005-04/11/content_2813048.htm; Provisional Measures for the Administration of Electricity End Users Tariffs. Viewed (in Chinese only) at: http://www.chinacourt.org/flwk/show1.php?file_id=100968; and HG.org website, "China: Electricity Tariff Reform". Viewed at: http://www.hg.org/ articles/article_805.html.

73. Electricity tariffs for end-users are still government set. The NDRC has committed to introduce a mechanism that will allow tariffs to float in accordance with the price paid by grids to generators; this is not yet in place. End user tariffs are determined taking into account the cost of electricity generation, the electricity loss during transmission, electricity transmission price, and the "cost of government fund".[72] Since 2005, the price of electricity has been adjusted to reflect the increase in the price of coal: the NDRC has allowed electricity companies to change their prices (within a limit) when the price of coal for electricity (CE) changes. Electricity tariffs still vary by region and end-user (i.e. large and medium-size industries, households, businesses, and agricultural users). In 2005, the average electricity retail tariff across the country was about Y 0.485/KWh (Y 0.471/KWh in 2004).[73]

Measures for environmental protection

74. Three quarters of the electricity generated in China is based on the use of coal, and the electricity industry has long been a major polluter. The environmental problems attributed to the use of coal as a source of fuel have become more apparent to the authorities. In response to the growing concerns, the Government is taking measures to switch from coal to other, cleaner, sources of energy while fulfilling the energy reduction goals set in the Eleventh Five-Year Plan (2006-10). The SERC will only grant licences to electricity generators and power projects that use environmentally friendly technologies. SERC will also strengthen supervision over the existing generators and work in cooperation with departments in charge of closing down small thermal power stations. During the first half of 2007, China shut down 156 small coal-fired energy-guzzling generation units and plans to replace them with big power generators. According to the NDRC, if all small units were replaced by large ones, the country would save 90 million tonnes of coal per year.[74] Although coal will remain the mainstay of China's energy supply, because of its price[75], diversification of the mix of energy forms, sources, and suppliers can generate important environmental and security benefits.

75. In 2007, to further encourage the use of clean and renewable energy, the State Council approved a document stipulating a schedule to access the grid. Access will be granted to the generating companies according to stipulated energy conservation standards, environmental protection standards and economic principles.[76] For example, companies using wind, power and bio-fuels as source of energy could be given priority to access the grid.

(d) Natural gas

76. Historically natural gas has not been an important fuel in China, but as it is a cleaner source of fuel, China has promoted its use and its share in the energy mix is increasing. In 2006, natural gas consumption increased by 58.5 billion cubic meters (bcm), up 20% from the previous year.[77] China's

[72] No information was provided to the Secretariat on the "cost of government fund".

[73] In 2005, tariffs were Y 0.484/KWh for large industrial users, Y 0.652/KWh for regular industrial users, Y 0.448/KWh for household users, Y 0.816/KWh for business users and Y 0.375/KWh for farming (information provided by the authorities).

[74] *Xinhua News*, 18 July 2007. Viewed at: http://news.xinhuanet.com/english/2007-07/18/content_6392857.htm [1 November 2007].

[75] The cost advantage of coal remains the prime consideration for its use. Even cheap renewable resources are, at present, still more expensive than coal (FT.Com, "Asian energy focus shifts to renewables", 8 November 2007).

[76] The Scheduling Approach for Energy-saving Power Generation (Tentative), State Council, 2 August 2007. This Approach was formulated by the NDRC along with the State Environmental Protection Administration (SEPA) and SERC.

[77] *Xinhua News*, 10 April 2007. Viewed at: http://news.xinhuanet.com/english/2007-04/10/content_5959783.htm [1 November 2007].

target is to increase the share of natural gas in total primary energy consumption to 5.3% by 2010, from 2.9% in 2005.[78] This will involve large increases in domestic gas production and in imports. Total gas output rose to 60 bcm in 2006 (from 26.2 bcm in 2000).[79] According to the Eleventh Five-Year Energy Plan, production of natural gas should reach 92 bcm by 2010. However, to achieve this goal, there is a need for increased investment and new technologies in the sector.

77. The country's largest natural gas reserves are located in China's western and northern provinces. However, demand for natural gas is in the rapidly growing eastern and southern parts of China, hence one of the industry's major challenges is to build new pipelines and upgrade existing ones so that natural gas can be transported across provinces. The West-East Pipeline Project from Xinjiang to Shanghai became operational in 2004 and the NDRC approved another project to build a second west to east pipeline. The second pipeline would cross 13 provinces and transport gas imported from Central Asia to the Pearl River and Yangtze River delta areas.[80]

78. As with oil, the natural gas sector in China is dominated by the three large state-owned oil and gas holding companies: CNPC, Sinopec, and CNOOC. CNPC operates primarily through its chief subsidiary PetroChina, and all three companies operate numerous local subsidiaries. CNPC is the country's largest natural gas player, in terms of production and sales, with some 75.6% of the market share in 2006.[81]

79. There is no specific law to regulate the natural gas industry. The subsector is regulated by the Mineral Resources Law [82], the Regulations for Safety Protection of Petroleum and Natural Gas Pipelines[83], and the Measures for the Administration of Gas in Urban Areas.[84] In an attempt to increase investment in the sector, in 2005 the Government started drafting a specific law, which would clarify, *inter alia*, the development goals, the pricing mechanism, and the taxation system applied to the subsector. The draft law has not yet been finalized, but this has been included as one of the Eleventh Five-Year Energy Plan targets.

80. Until recently, natural gas was used primarily as feedstock in chemical fertilizer production and an energy source at oil and gas fields. However, an August 2007 NDRC directive on the utilization of natural gas is aimed at avoiding shortages of natural gas, optimizing the use of natural gas, and improving energy efficiency while reducing gas emissions. The industries allowed to use natural gas in China will have to follow this directive, which stipulates that natural gas can be used as household fuel and industrial fuel for electricity generation, and to produce chemicals, and ranks these activities in the categories preferred, permitted, restricted, and forbidden. The use of natural gas as household fuel appears in the preferred category, while its use to produce methanol and electricity are forbidden activities.[85]

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[78] *China View,* 9 April 2007. Viewed at: http://news.xinhuanet.com/english/2007-09/04/content_6661083.htm. [4 September 2007].

[79] Despite the rapid increase in natural gas production, gas-fired thermal power in 2006 accounted for only 1.7% of the country's total installed electricity generating capacity.

[80] *Xinhua News,* 28 August 2007. Viewed at: http://www.chinanews.cn/technology/2007-08-28/38934.html [1 November 2007].

[81] Information provided by the authorities.

[82] Issued in March 1986 and modified in August 1996.

[83] Effective 2 August 2001.

[84] Effective 1 January 1998.

[85] *China Daily*, 4 September 2007. Viewed at: http://www.chinadaily.com.cn/bizchina/2007-09/04/content_6080128.htm [13 February 2008].

81. Up to 2005 the price of natural gas in China was tightly controlled by the Government and once set, prices were reviewed only occasionally. This pricing system did not encourage the development of the gas industry, since set prices did not take into account costs of production and/or the alternative use of resources. As a result, the industry did not adapt to a rapidly changing economic environment.[86] A government-adjusted price mechanism for natural gas was introduced in December 2005. As a result of this reform, China's natural gas producers were classified into two unspecified groups and different benchmarks were adopted to set factory prices. These benchmarks are adjusted each year in accordance with the price of other fuels, and producers may increase prices within a limit, usually of 8%.[87]

(4) MANUFACTURING

(i) Iron and steel

(a) Market structure

82. In 2006, the iron and steel industry accounted for 2.9% of GDP and 1.6% of total employment in China. The industry accounted for 2.7% of merchandise imports in 2006, and 3.4% of merchandise exports. In 2006, there were 17 companies with an annual output of over five million tonnes of crude steel (11 in 2005): SOEs accounted for 43% of gross output while foreign investment plays a relatively small role, accounting for about 13%. In 2006, the volume of steel production grew by 19.7% and iron production by 19.7%.

83. There appears to have been "over-investment" in China's steel industry; for example, fixed-asset investment increased by 96% in 2003, though in 2006 it decreased for the first time in five years, by 2.5%. The Government has adopted a number of measures to curb investment in the sector by, for example, monitoring total production volume, closing down obsolete production units, adjusting export taxes on steel, and setting differential electricity rates.[88]

(b) Regulatory framework and restructuring

84. The NDRC plans and implements policies on the overall industrial development of China's steel industry; China Iron and Steel Association (CISA), a business association established in 1999, functions mainly as a bridge between its members (i.e. producers) and the Government.[89] The CISA established internal rules and regulations in accordance with relevant national policies; it also participates in relevant international activities on behalf of China's steel industry.

85. Under the Steel Industry Development Policy, which has remained unchanged since its adoption in 2005, the Government aims to achieve "reasonable" production capacity by consolidating the industry, expanding the proportion of high-value-added products, saving energy, and reducing

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[86] Chen (2003).

[87] *People's Daily*, 27 December 2005. Viewed at: http://english.peopledaily.com.cn/200512/27/eng20051227_230963.html [13 February 2008].

[88] Since June 2004, iron and steel manufacturers have been classified by the Government into three categories: "to be eliminated", "to be restricted" and "to be encouraged"; differential electricity rates have been applied accordingly, to promote the restructuring of the industry. For example, from 1 January 2008, power tariff for manufacturers in "to be eliminated" category are Y 0.2/Kwh, compared with Y 0.05/Kwh for manufacturers in "restricted" categories (Notice on Further Implementing Differential Power Tariff issued by the State Council on 17 September 2006).

[89] Enterprises with production capacity of 1 million tonnes or above may join the CISA; smaller steel producers may join local iron and steel associations, which are also members of the CISA. It would appear that FIEs can join the CISA.

pollution. The policy supports the expansion of key existing steel makers, as "in principle" new projects will not be approved, and some small-scale producers are to be closed down or acquired by large ones.

86. The policy also encourages the use of domestically produced equipment or technology, and emphasizes efforts to produce such equipment locally. The Government provides assistance in the form of tax refunds, discounted interest rates, and funds for research and development to major iron and steel projects using newly developed domestic equipment. Under Article 18 of the Steel Industry Development Policy, enterprises are encouraged to use domestic equipment and technology and to reduce imports; though, according to the authorities, no specific measures have been implemented. The Government also provides assistance to domestic equipment manufacturers to export technology and metallurgy equipment, for example, in the form of export credit.

87. Rules and requirements for foreign and domestic investment in the industry have remained largely unchanged since 2006.[90]

(c) Import and export measures

88. The simple average applied MFN tariff on China's iron and steel (ISIC 371) imports was 5.0% in 2007 (5.1% in 2005). Imports of iron ore are regulated under the Measures on the Iron Ore Import Licensing Administration (effective 1 March 2005), under which "automatic" import licences are granted only to enterprises satisfying certain requirements.[91] The importer needs to satisfy the Iron Ore Importer Qualification Standards (2007), set by the CISA and the China Chamber of Commerce of Metals, Mineral and Chemicals of Importers and Exporters (CCCMC); the Standards entered into effect in February 2007. In order to obtain an "automatic" import licence, importers (steel manufacturers) must have certain facilities to control pollution, which vary according to scale of production; meet relevant national standards on pollutant discharge; have registered capital of Y 20 million; a bank credit line (i.e. maximum amount of loan banks are willing to provide to the enterprise) of Y 400 million; and iron ore imports in 2005 of at least 0.7 million tonnes.

89. In order to discourage exports, the Government has reduced VAT rebate rates for iron and steel exports: in September 2006, VAT rebates applicable to certain finished steel products were reduced from 11% to 8%; and in July 2007, rebates were eliminated for some 553 items (including iron and steel products regarded as highly energy consuming, highly polluting, and consuming large amount of raw materials); and were reduced for 2,268 items that the authorities considered prone to trade friction (including some steel products).[92]

90. Export licence requirements have also been applied to reduce exports of some steel products (83 tariff lines at the HS eight-digit level) since 20 May 2007 (Chapter III(3)(v)).

[90] They include: examination and approval by the NDRC; and self-owned capital of no less than 40% of the registered capital for steel manufacturers. In addition, cross-region investment by domestic iron and steel enterprises is permitted if their previous year's output of common steel was 5 million tonnes, or 500,000 tonnes for special high alloy steel; for foreign enterprises, the requirement is at least 10 million tonnes of common steel during the previous year, or at least 1 million tonnes of special high alloy steel. FIEs can participate in the reform and relocation of existing enterprises, but may not take controlling stakes.

[91] WTO (2006), p. 193.

[92] Central Government online information. Viewed at: http://www.gov.cn/zwgk/2007-06/19/content_653655.htm.

(ii) Textiles and clothing

(a) Market structure

91. China remains the world's largest textiles and clothing (T&C) producer. The T&C sector employed around 20 million people in 2006 (up from 19 million in 2004). In 2006, 39,400 firms had an annual turnover above Y 5 million, an increase of 9.57% over 2005. Domestic private and foreign enterprises are still important in exports and imports of textiles and clothing products (Table IV.1). No data were made available to the Secretariat on the shares of SOEs, FIEs or domestic private enterprises in total output (for firms with annual turnover above Y 5 million).

Table IV.1
Textiles and clothing industry, 2005-06
(US$ billion and per cent)

	2005	2006
Imports and exports (US$ billion)	134.6	165.1
Import	17.1	18.1
Export	117.5	147.1
	(Per cent)	
Share of SOEs in total trade	28	23.1
Share in total exports	29.7	24.3
Share of collective-owned enterprises in total trade	8.1	6.65
Share in total exports	8.8	7.05
Share of FIEs in total trade	38.9	36.99
Share in total exports	34.3	32.7
Share of domestic private enterprises in total trade	24.97	33.2
Share in total exports	27.3	35.9

Source: Data provided by the authorities. Import and export data are from UNSD, Comtrade database (SITC Rev.3).

92. The textiles and clothing industry continues to face several constraints. There is little technological innovation in the industry: the ratio of R&D expenditure to total sales is less than 1%, and China has yet to establish its own well-known brands in the international market. There are also shortages of key inputs, for example electricity and cotton. In 2007, imports of cotton subject to TRQs amounted to 2.46 million tonnes, in-quota imports accounted for 894,000 tonnes. Out-of-quota imports of cotton were subject to a sliding tariff ranging between 6% and 40%; the rate depending on import prices (Chapter III(2)(iii)). The China National Textile & Apparel Council (CNTAC), which is the national textile-related industries federation, claimed that, the use of the sliding tariff increased the cost of imported cotton and hence reduced profits for producers of textiles and clothing.[93]

(b) Regulatory framework and recent reform

93. Various government agencies are responsible for regulating the textiles and clothing industry. In April 2006, the NDRC, MOFCOM and eight other government departments issued a circular setting out targets to accelerate the restructuring of the textile industry[94], i.e. to raise labour productivity by 60% between 2006 and 2010, and to reduce energy and water intensity by 20%. In June 2006, the CNTAC and the NDRC issued the Development Guidelines of the Textile Industry in

[93] CNTAC (2007b), p. 7.
[94] NDRC online information. Viewed at: http://www.sdpc.gov.cn/zcfb/zcfbtz/tz2006/t20060530_71196.htm [20/11/07].

the Eleventh Five-Year (2006-10) Period[95], which propose upgrading technology and increasing the production of high-quality products, developing energy-saving techniques, and promoting the development of the industry in central and western China.[96]

94. In 2006, the Government allocated Y 1.36 billion to improve productivity in the T&C industry[97]; Y 560 million were to promote innovation and the rest to support enterprises that invest abroad. The Government continues to encourage enterprises to invest abroad, in particular in developing and least developed countries.

(c) Import and export measures

95. Although 75% of the sector's total output was consumed domestically in 2006 (up from 70% in 2005), China remained the largest exporter of textiles and clothing products in the world. Exports of textiles and clothing reached US$147.1 billion in 2006, up some 25% over 2005. On the other hand, imports increased quite slowly. In 2006, imports of textiles and clothing increased by 5.8%, to US$18.1 billion.

96. Tariffs on textiles and clothing have remained largely unchanged since the previous Review of China. The simple average applied MFN tariff rate for textiles (ISIC 321) was 10.9% in 2007, the same as in 2005; the average rate for clothing (ISIC 322) was 16.0% in 2007 from 15.8% in 2005. This was attributed partly to changes in the HS nomenclature, and partly to the tariff increase on 2 lines at the HS 8-digit level. The applied MFN rate for belts (HS 4203.3010) and bandoliers (HS 4203.3020) both increased from 0% in 2005 to 10% in 2007.

97. China has reduced VAT rebate rates on exports of textiles and clothing twice since its previous Review, in an effort to reduce the growing trade surplus. They were lowered from 13% to 11% for textile products in September 2006; and in July 2007 from 13% to 11% on clothing, and from 7% to 5% on fabrics. As a result of these measures and the appreciation of the exchange rate, T&C exporters' profits may decline; it was estimated that, a one percentage point appreciation of the RMB would reduce profits for the entire T&C industry by Y 7.2 billion[98], and a two percentage points reduction in VAT rebate would cost the industry Y 4.8 billion in profits.

98. Other trade-related measures that affect China's exports of textiles and clothing products include the memoranda of understanding (MOUs) it has signed with the European Communities, and with the United States. Under these MOUs, growth of Chinese textiles and clothing exports to these markets is restricted (Chapter III(3)(v)). Under a 2006 MOU signed with South Africa (in effect until 2008), South Africa may impose unilateral import restrictions on 31 categories of textiles and clothing products originating in China. After signing the MOUs, MOFCOM issued the Measures for the Administration of Textiles Exports (Provisional), effective 18 September 2006.[99] Under these Measures, MOFCOM, the General Administration of Customs, and the AQSIQ compiled a Catalogue

[95] China apparel online information. Viewed at: http://www.efu.com.cn/data/2006/2006-06-28/154599.shtml (in Chinese) [13 February 2008].

[96] Production of textiles and clothing is relatively concentrated in the eastern part of China, particularly Fujian, Guangdong, Jiangsu, Shandong and Zhejiang provinces, as well as Shanghai; the eastern part of China accounts for 73% of total employment, 82% of turnover, 88% of total exports, and more than 90% of FDI in the textiles and clothing sector in China (CNTAC (2007a)).

[97] CCPITTEX online information, 31 January 2007. Viewed at: http://www.ccpittex.com/eng/texInfo/8831.html [13 February 2008].

[98] CNTAC (2007b), p. 8.

[99] The measures are based on the Interim Measures for the Administration of Textiles Exports, issued on 19 June 2005, and revised later to become effective on 22 September 2005.

of Textiles Products Subject to Interim Export Administration, which lists textiles and clothing exports subject to restrictions imposed by countries or regions unilaterally, and those subject to temporary quantitative control under bilateral agreements (Chapter III(3)(v)).

(iii) Automotive sector

(a) Market structure

99. China is the world's third largest automobile manufacturer, after the United States and Japan. In 2006, the automotive sector accounted for 7.3% of total manufacturing value added (up from 4.0% in 2004), and it absorbed 7.7% of the total manufacturing workforce (2.8% in 2004). In 2006, China had about 100 vehicle manufacturers and around 4,500 auto parts manufacturers (Table IV.2). FIEs accounted for around 75% of cars produced in China, and 52% of cars sold domestically in 2006.[100] Data provided by the authorities indicate that 95% of cars produced in China in 2006 were sold in the domestic market.

Table IV.2
Automotive industry, 2004-06

	2004	2005	2006
Production (million vehicles)			
Automotive[a]	5.1	5.7	7.3
Cars (sedans)	2.3	2.8	3.9
Sales (million vehicles)			
Automotive	5.1	5.8	7.2
Cars (sedans)	2.3	2.8	3.8
Share of imported motor vehicles to total domestic sales (%)	3.4	2.8	3.2
Number of firms	102	103	103

a Includes buses, trucks, and cars.

Source: Information provided by the Chinese authorities.

(b) Regulatory framework

100. China's policy in the automotive sector seems to be largely unchanged since its previous Review. The Industrial Policy for the Automotive Industry, revised in 2004, remains in place; all "greenfield" investment projects are subject to approval.[101] There is a 50% foreign-ownership restriction in vehicle manufacturing, including completely built up units, automobiles for special use, agricultural transport vehicles, and motorcycles.[102]

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[100] Pway online information. Viewed at: http://bbs.pway.cn/dv_rss.asp?s=xhtml&boardid=19&id=55264&page=2 (in Chinese) [13 February 2008].

[101] The Industrial Policy for the Automotive Industry aims to support manufacturer's efforts to improve domestic production of auto products, and promote domestic research and technology development. Enterprises' R&D expenditures are tax deductible provided they comply with the technological policy. Under Article 62 of the policy, local governments "should not implement discriminative policies on automobiles not produced locally nor adopt measures that may result in discriminative consequence".

[102] If approved by the State Council, this limit may be relaxed for vehicle manufacturers intending to export and located in an export processing zone; the policy does not stipulate a maximum equity limit for such cases.

101. Producers must register with the provincial departments of the NDRC or the MOFCOM, including for: the expansion of existing production facilities for automobiles, agricultural transport vehicles, and automobile engines; investment to produce their spare parts; and investment to produce motorcycles and engines. Projects that must be verified by the NDRC or the State Council include: new investment in automobile, agricultural transport vehicle, and automobile engine production; and expansion by existing automotive manufacturers into different types of products. The minimum capital requirement for new entrants is Y 2 billion, and an R&D institution must be established with investment of no less than Y 0.5 billion.[103] When establishing a foreign-invested automotive manufacturing joint venture, the place of origin of technology must be registered with the competent authorities (e.g. the provincial departments of the MOFCOM or the NDRC).

102. Although it has been the Government's intention to introduce standard, nationwide administrative and registration fees, car registration fees vary by region. In some cities, such as Shanghai, there are quotas for the number of licences; licences can be issued through auction, which tends to raise licence fees.

103. Substantial investment in the automotive sector in recent years has apparently created excess capacity.[104] Thus, in December 2006, the Notice on Opinions to Restructure the Auto Industry was issued to, *inter alia*, curb investment in the automotive sector and develop more "environmentally friendly" auto manufacturers. The notice sets out new requirements for capital, technology, profit, and debt thresholds; these are in addition to those stipulated in the Industrial Policy for the Automotive Industry. For example, to obtain approval to open a new factory in another location, a company's sales in the previous year must have reached 80% of its approved production capacity; if there was no approved production capacity, the previous year's sales must be higher than a specified minimum threshold.

(c) Import and export measures

104. In 2006, 3.2% of vehicles sold in China were imported (3.4% in 2004). The simple average applied tariff (including interim duties) for motor vehicles (ISIC3843) was 13.5% (14.8% in 2005). Imports of vehicles are permitted only through four coastal ports, two terrestrial, and Xingjiang Alashankou. The importation of used vehicles, parts, and components is prohibited.

105. Importers of motor vehicles or key spare parts must apply to MOFCOM or its designated provincial departments for an automatic import licence. The licence is used for statistical purpose; it is issued within ten working days of receipt of the application, and valid for six months within the calendar year.

106. Imports of automotive products must obtain a China Compulsory Certificate (CCC) mark and are subject to random inspection at the border. An Inspection and Quarantine Certificate for Entering Commodities and a Car Attaching Inspection Certificate is issued by the Customs to each vehicle; the inspection certificate is needed to sell the car and to register it.

107. Under the MOFCOM's 2005 Automobile Trade Policy, FIEs are encouraged to engage in automobile trade. To establish an FIE, foreign investors must meet the general foreign investment requirements set out in the relevant laws and regulations, and obtain approval from the State Council

[103] Article 47 of the Industry Policy for the Automotive Industry specifies more detailed requirements for new investment projects (WTO (2006)).

[104] Tian (2007) found that China's automobile industry, which is subject to entry barriers and high tariffs to promote economies of scale, is less efficient than its computer industry, which operate in a largely laissez-faire market environment.

after completing an examination at the provincial level. Article 39 of the Trade Policy prohibits unfair trade with regard to imports of automobiles and parts; the competent authorities under the State Council may implement anti-dumping, countervailing, and safeguard measures, establish a warning system, and conduct investigations into the competitiveness of the automobile industry.

108. Exporters of completely built up units, including passenger vehicles, business vehicles, chassis, and "components in complete form", must apply for licences from local departments of MOFCOM (Chapter III(3)(v)(b)).

(iv) Electronics and information industry

(a) Market structure

109. In 2004, China became the world's largest exporter of electronic products; these exports grew from US$207.5 billion in 2004 to US$364 billion in 2006 (the latest year for which data were available). The value of China's imports of electronic products also grew significantly, from US$180.9 billion in 2004 to US$287.7 billion in 2006. Exports and imports of electronic products accounted for 37.6% and 36.3% of total merchandise exports and imports, respectively, in 2006. Imports of electronic and information products involved largely electronic components of computers (such as hard disk drives) as well as integrated circuits and semiconductors, which were needed for its exports of computer and related equipment.[105]

110. Between 2004 and 2006, value added in the electronics and information industry grew at an annual average of 25%. Value-added was 5.25% of GDP in 2005, and in 2006, the industry accounted for 12.4% of total employment in manufacturing (up from 6.4% in 2004). Relatively hi-tech FIEs and medium and low-tech domestic firms coexist; the latter specialize in components supplied to the FIEs. FIEs' accounted for 85.7% of exports of electronic and information products in 2006, up from 73.5% in 1999; during the same period, their sales in the domestic market increased from 39.2% to 55.7%.

(b) Regulatory framework and foreign investment

111. The Ministry of Information Industry (MII) administers the electronics and information industry. The Government seeks to attract FDI in the subsector and to foster technological development, and, in this context, issued the Guidance for Key Fields of High Tech Industries Developed by the State with Priority on 23 January 2007. In addition, the 2007 Catalogue for the Guidance of Foreign Investment Industries includes 35 electronics and communications equipment categories in the "encouraged" category, compared with 30 in 2004.[106] Additionally, a number of incentives and subsidies are in place, including subsidized bank loans and tax reductions (Chapter III(4)(i) and (ii)).[107] Incentives provided by the Central Government are apparently complemented by additional incentives provided by local governments; however, no information on such incentives was made available to the Secretariat.

[105] China has the largest trade surplus in computers and related equipment, particularly data processing machines; video cameras and recorders; TV receivers; and telephones.

[106] Only "the ground receiving apparatus of satellite TV and its key components, and tax-POS" are listed in the "restricted" category.

[107] According to the authorities, there is no corresponding investment or subsidy programme for IC projects approved by the Government; preferential tax treatment for IC products designed in China and produced abroad was eliminated in October 2004.

112. The Government has been encouraging FDI in the subsector through income tax exemptions as well as VAT and tariff concessions; after the entry into force of the Enterprise Income Tax Law on 1 January 2008, FIEs will continue to enjoy preferential income tax treatment during a transitional period. Furthermore, there are no minimum capital or technology requirements for foreign investment in the industry. Against this background, around 15% of total FDI, on average, has been invested in the electronics industry since 1999, making it the top recipient of foreign capital in China.

113. In addition, the Government has adopted several measures to assist development in the industry, in particular to improve the technological capabilities of domestic enterprises. These include, tariff exemptions for imported equipment by scientific research or educational institutions.

114. According to the MOU between China and the United States, tax reductions on integrated circuits industry were withdrawn in April 2005. Other measures in Policies for Encouraging the Development of Software and Integrated Circuit Industry are still effective. The Government provides support for the innovation of core technologies, such as integrated circuits, core components, and software through the Electronic Industry Development Fund (EIDF).[108] In the Eleventh Five-Year Plan, the IC industry is identified as one of the core sectors that will receive priority.

115. At present there are 54 economic and technological development zones (ETDZs). In addition, the National Electronic and Telecommunication Industry Base (NETIB), instituted in 2004 to promote clustering of the industry, allows companies to take advantage of economies of scale, thereby increasing their competitiveness. There are nine such clusters in operation; they accounted for 60% of total output of "above-scale" electronics and information industry firms in 2006.

(c) Import and export measures

116. The simple average applied MFN tariff rate (including interim duties) for electrical machinery apparatus, appliances, and supplies (ISIC 383) rose from 9.1% in 2005 to 9.7% in 2007, due to China's changes in HS nomenclature. The authorities state that the tariff average rose because, under the HS 2007, some non-zero-rate tariff items were further classified into more specific ones, resulting in a rise in the number of non-zero-rate tariff items.

117. To enhance the competitiveness of Chinese enterprises, the Government provides assistance, such as export credit insurance from SINOSURE at favourable conditions, to selected exporters in certain sectors. In addition, export loans are provided by the EXIM Bank.

(5) SERVICES

(i) Overview

118. The tertiary sector in China accounted for about 39% of GDP in 2006, the most recent year for which data are available.[109] In 2006, the major services activities included wholesale and retail trade; transport, storage and postal services; real estate; and financial intermediation (Chart IV.1). The share of services in GDP remains small compared with other developing countries, where the average participation in GDP is some 52%. The development of the services sector has been

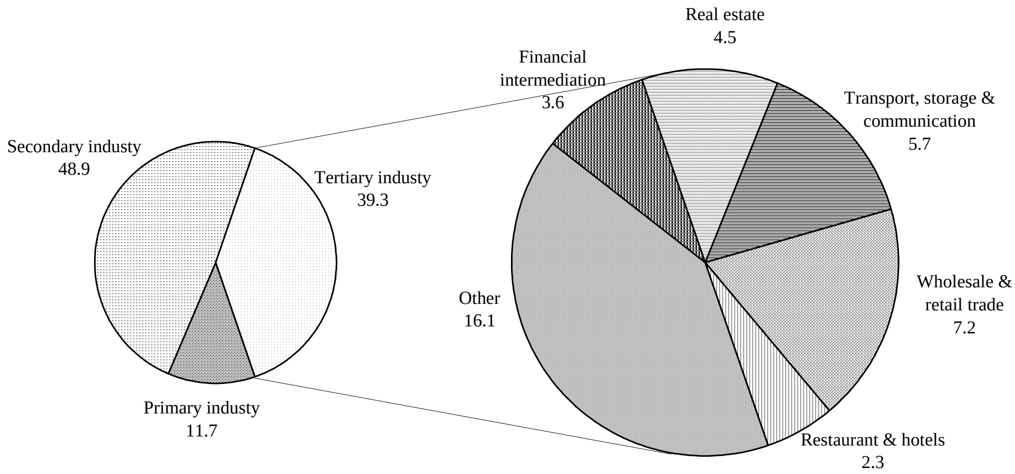
[108] Innovation funds and science and technology funds accounted for 4.4% of total budgetary expenditure.

[109] The tertiary sector refers to all economic activities other than the primary sector (agriculture, forestry, animal husbandry and fishery) and the secondary sector (mining and quarrying, manufacturing, production and supply of electricity, water and gas, and construction). Data from National Bureau of Statistics (2006).

identified as a priority in the Eleventh Five-Year Plan for National Economic and Social Development.[110] Chinese authorities expect the services' contribution to GDP to increase to 43.3% in 2010, and to 50% in 2020, and employment in the sectors to increase from 31.4% in 2005 to 35.3% in 2010.

Chart IV.1
Composition of GDP, 2006

Per cent



Source*: National Bureau of Statistics, *China Statistical Yearbook 2007.

119. In 2006, China's total exports of goods and services reached US$91.4 billion (an increase of 24% over the previous year), while total imports amounted to US$100.3 billion (an increase of 21%). China's services exports represented 9.4% of total exports, while services imports represented 12.6% of total imports. China's exports and imports of services accounted for 3.3% and 3.8% of world services exports and imports, respectively.[111]

120. The services sector has been gradually liberalized, but continues to be characterized by state involvement through SOEs, and there are still significant restrictions on foreign investment and private-sector activities. In liberalizing services, China has tended to follow closely its commitments under the GATS rather than liberalize autonomously, but in some sectors it has also maintained or erected entry requirements that are considered high or cumbersome, discouraging foreign suppliers from gaining market access. For example, the number of suppliers in telecommunications is still limited; foreign equity limitations are prevalent in banking, insurance, securities, and asset management; and excessive capital requirements continue to restrict market entry for foreign suppliers in banking and insurance.

[110] See the outline in NDRC online information. Viewed at: http://en.ndrc.gov.cn/hot/t20060529_71334.htm.

[111] WTO International Trade Statistics (2007). The data on trade in services is taken from the balance of payments. However, these data underestimate trade in services, as their coverage is more limited in scope than that of the GATS (for example, commercial presence (mode 3) is not included in the balance of payments).

(ii) Commitments under the General Agreement on Trade in Services

121. In the GATS, China made specific commitments in 9 of the 12 large sectors contained in the classification list generally used: business services; communication services; construction and related engineering services; distribution services; educational services; environmental services; financial services (Table AIV.2); tourism and travel related services; and transport services.[112] No commitments were made in health-related and social services; recreational, cultural and sporting services; or other services not included elsewhere.

122. In its horizontal commitments schedule, market-access limitations with regard to commercial presence (mode 3) include minimum equity requirements on market access for foreign equity held in a joint venture (at least 25% of the registered capital of the joint venture). The establishment of branches by foreign enterprises is unbound unless otherwise indicated in the specific commitments; representative offices of foreign enterprises are permitted to establish in China, but may not engage in any profit-making activities, except as indicated in China's specific commitments. There are also limitations with regard to ownership of land by enterprises and individuals: 70 years for residential purposes; 50 years for industrial, education, science, culture, public health, physical education, and "comprehensive utilization" (multi-utilization of land, according to the authorities) and other purposes; and 40 years for commercial, tourism, and recreational purposes. Market access for natural persons is unbound, except for the temporary stay of managers, executives, and specialists of a corporation from a WTO Member as intra-corporate transferees of a representative office, branch or subsidiary (initial stay of three years); employees of an FIE (the shorter of three years or length of contract); and salespersons negotiating the sale of services (90 days).

123. With regard to national treatment, China has scheduled a horizontal limitation under mode 3 that covers all existing subsidies to domestic service suppliers in audiovisual, aviation, and medical services. The presence of natural persons (mode 4) is unbound, except for persons permitted entry into China as listed above.[113]

124. In its Article II (MFN) exemptions, China lists maritime transport (international transport, freight and passengers); the parties concerned may, through bilateral agreements, establish entities to engage in business in China, "subject to Chinese laws on joint ventures and on foreign-capital enterprises for ships owned or operated by carriers of the parties to the agreement". In addition, China has listed cargo-sharing agreements with Algeria, Argentina, Bangladesh, Brazil, Thailand, the United States, and Zaire (section (v)(b)).[114]

(iii) Financial services

(a) Overview

125. In spite of the significant improvements made since reform began in 1979 (Box IV.2), the structure of China’s financial sector is still unbalanced, with a significant predominance of banks over other types of financial institutions. In terms of market capitalization, the Chinese stock market was relatively small, representing roughly 43% of GDP in 2006, although the situation seems to be improving. By contrast, the ratio of total bank credit to GDP in China reached almost 150%. Commercial banks' dominance of the sector is evident from their participation in the system's total assets (Table IV.3).

[112] WTO document GATS/SC/135, 14 February 2002.
[113] The other two modes are cross-border supply (mode 1), and consumption abroad (mode 2).
[114] WTO document GATS/EL/135, 14 February 2002.

Box IV.2: Banking reform

Before the reform process initiated in 1979, China's financial sector – and the whole allocation of resources – was organized to serve the Government's production and investment plans. Because of state ownership, equity markets were non-existent; and the People's Bank of China (PBC) was virtually the only bank, performing both central bank and commercial bank functions. The PBC was the only deposit-taking and lending institution. It was also instrumental in channelling investment to state-owned enterprises and priority sectors. Essentially, SOEs' surpluses were remitted to the Government, and then reallocated to priority sectors and firms through a credit plan administered by the PBC in accordance with Government's decisions. Financial reform proceeded in roughly five stages. In the first stage, from 1979 to 1985, the banking system was restructured, by breaking-up the mono-banking system and separating the PBC's central bank functions from its commercial bank functions. The first separate banking institutions were established, the so-called Big Four: the Agricultural Bank of China (ABC), the Bank of China (separated from the PBC), the People's Construction Bank of China (later the China Construction Bank, CCB), and the Industrial and Commercial Bank of China (ICBC). State-owned banks, rather than the PBC, became responsible for providing capital to SOEs. In the second stage, from 1986 to 1992, the banking system continued to diversify through the introduction of new products and the opening of new commercial banks, and, most importantly, the first stock markets – Shanghai and Shenzhen – were established. Non-bank financial institutions, including stock market intermediaries and securities management companies, started to appear. In the third stage, from 1993 to 1997, the financial system continued to expand and diversify, with the establishment of new commercial banks. The most important development was the enactment in 1995 of the Law on the People's Bank of China, and the Law on Commercial Banks, which provided the legal frameworks for the operations of the PBC as central bank, and for the organization of commercial banking, respectively. In 1994, three policy banks were established in order to perform policy-lending functions: China Development Bank, Export-Import Bank of China, and China Agricultural Development Bank. By 1994, problems with non-performing loans (NPLs) had become apparent. It was during the fourth stage of reform (1998-2002) that the first moves were made to resolve the problem of NPLs, with the establishment in 1999 of four state-owned asset management companies, one for each of the Big Four, with a view to relieving them of the NPL burden. The fifth reform phase started towards 2003. New regulatory structures have been established (the China Banking Regulatory Commission, the China Securities Regulatory Commission, and the China Insurance Regulatory Commission), and a plethora of reforms have been introduced ahead of the impact of WTO commitments.

Source: Chiu, Becky, and Mervin K. Lewis (2006), *Reforming China's State-owned Enterprises and Banks*, Edward Elgar.

Table IV.3
Total assets of the financial system, 2003-06
(Share of total assets, per cent)

	2003	2004	2005	2006
Policy banks	7.2	7.2	7.5	7.6
Commercial banks	70.7	71.8	73.2	73.4
State-owned commercial banks (SOCBs)	54.3	53.8	53.9	52.8
Joint-stock commercial banks	10.0	10.9	11.5	11.9
City commercial banks	4.9	5.1	5.2	5.6
Rural commercial banks	0.1	0.2	0.8	1.1
Foreign banks	1.3	1.7	1.8	2.0
Rural cooperative banks	..	..	0.7	1.0
Rural credit cooperatives	9.0	9.2	8.1	7.5
Urban credit cooperatives	0.5	0.5	0.5	0.4
Post savings bank	3.0	3.2	3.5	3.5
Non-bank financial institutions	3.1	2.6	2.6	2.3
Insurance companies	4.0	2.7	3.9	4.3
Securities companies	1.9	1.7	..	..
Fund management companies	0.6	1.0	..	..

.. Not available.

Source: CBRC (2006), *Annual report;* CSRC (2004 and 2005), *Annual reports*; and PBC (2006), *China Financial Stability Report 2006,* for data on insurance companies in 2005; and PBC (2007), *China Monetary Policy Report Fourth Quarter,* for data on insurance companies in 2006.

126. The banking sector also plays a predominant role as a source of financing for the non-financial sector. In 2006, a total of Y 3,987.4 billion worth of funds was raised by the non-financial sector, of which 82% was financed through bank loans, and 18% through the issuance of government securities, and corporate bonds and equity (Table IV.4).

Table IV.4
Financing by the domestic non-financial sector, 2005-06

	Volume (Y billion)		**Share (%)**	
	2005	**2006**	**2005**	**2006**
Financing by domestic non-financial sector	3,067.7	3,987.4	100.0	100.0
Bank loans	2,461.7	3,268.7	80.2	82.0
Equities	105.3	224.6	3.4	5.6
Government securities	299.8	267.5	9.8	6.7
Corporate bonds	201.0	226.6	6.6	5.7

Source: People's Bank of China (2007), *China Monetary Policy Report,* Fourth Quarter.

127. Another notable feature of the financial sector is the high degree of state ownership and control. The most important banks in the system (i.e. the Big Four State-owned commercial banks, the three policy banks, and the Postal Savings Bank), as well as most other financial institutions (e.g. credit cooperatives, non-bank financial companies, and insurance companies) are either state-owned or state-controlled (e.g. through the SOEs). Only foreign banks and foreign insurance companies can be said to be truly non-state-owned or controlled.

128. Assets of the banking and insurance sectors are also highly concentrated: the largest four banks and six insurance companies account for 54% and 85%, respectively, of banking assets and insurance premiums.

(b) Banking

Market structure

129. At end December 2006, China's banking sector comprised 19,797 banking institutions, which had 183,897 outlets and 2,732,394 staff[115] (Table AIV.3); 74 foreign banks from 22 countries and regions had opened 200 branches and 14 locally incorporated institutions in 25 cities.[116]

130. China's banking sector has grown rapidly in recent years. Between 2003 and 2006, total banking assets grew at an average of around 17% annually. By end 2006, total bank assets were Y 43.95 trillion, up by Y 6.48 trillion over 2005. About 55% of the banks' assets are held by the Big Four SOCBs, while the 12 joint-stock commercial banks and the RCCs account for 12% and 8% of total bank assets (Table IV.5).

[115] These institutions included: 3 policy banks and 5 state-owned commercial banks (SOCBs), 12 joint-stock commercial banks, 113 city commercial banks, 78 urban credit cooperatives (UCCs), 19,348 rural credit cooperatives (RCCs), 13 rural commercial banks, 80 rural cooperative banks, 1 postal savings bank, 54 trust companies, 70 corporate finance companies, 6 leasing companies, and 14 subsidiaries of foreign banks.

[116] In addition, 186 foreign banks from 41 countries and regions had opened 242 representative offices in 24 cities.

Table IV.5
Total assets of banking institutions, 2003-06
(Y trillion and %)

	TOTAL ASSETS (Y TRILLION AT YEAR END)				PERCENTAGE OF TOTAL ASSETS			
	2003	2004	2005	2006	2003	2004	2005	2006
Total assets (Y trillion at year end)	27.64	31.60	37.47	43.95	..	..	..	..
Policy banks	2.12	2.41	2.93	3.47	7.7	7.6	7.8	7.9
SOCBs	16.05	17.98	21.01	24.24	58.1	56.9	56.0	55.2
Joint-stock commercial banks	2.96	3.65	4.47	5.44	10.7	11.6	11.9	12.4
City commercial banks	1.46	1.70	2.37	2.59	5.3	5.4	5.4	5.9
Rural commercial banks	0.04	0.06	0.30	0.50	0.1	0.2	0.8	1.1
Rural cooperative banks	..	..	0.27	0.46	..	..	0.7	1.0
Rural credit cooperatives	2.65	3.08	3.14	3.45	9.6	9.7	8.4	7.8
Urban credit cooperatives	0.15	0.18	0.20	0.18	0.5	0.6	0.5	0.4
Foreign banks	0.40	0.58	0.72	0.93	1.4	1.8	1.9	2.1
Non-bank financial institutions	0.91	0.87	1.02	1.06	3.3	2.8	2.7	2.4
Post Savings Bank	0.90	1.08	1.38	1.61	3.3	3.4	3.7	3.7

.. Not available.

Source: CBRC (2007), *Annual Report 2006,* (Appendix 8-1).

131. Banks have historically been the principal provider of financing for enterprises and the primary choice for the deposit of domestic savings. Bank loans accounted for 82% of total financing in 2006 with the remaining 18% raised through bond and equity issuances.[117] The principal source for commercial banks' assets has always been household savings, which in 2006 represented about 48% of total deposits in banking institutions.[118]

132. Based on rapid growth in total deposits *vis-à-vis* total loans, overall liquidity in the banking sector has improved over the past few years. While total deposits in the banking institutions was 57% higher in 2006 than in 2002, total bank loans were only 40% higher.[119] As a result, the loan-to-deposit ratio dropped from 77% in 2002 to 67% in 2006. According to the authorities, the reason for the excess liquidity is the enduring surplus in international payments, which increased from US$30.4 billion in 2002 to US$177.5 billion in 2006.[120] Capital inflow, mainly through FDI, also increased during the same period, from US$49.3 billion to US$78.1 billion.

133. Detailed aggregate data on the sectoral breakdown of lending were not made available to the Secretariat. However, it would appear that, despite the banks' recent push towards retail lending, manufacturing and real estate (including property and construction loans, and mortgages) remain among the largest exposures.[121]

134. Low profitability remains one of the main weaknesses in the sector. While the average rate of net return on total assets (ROA) and net return on equity (ROE) of the Big Four was 0.9% and 14.9%, respectively, in 2006, earnings fell short of the level required to sustain internal capital generation

[117] In the first half of 2007, bank loans accounted for 89.2% of total domestic financing; the remaining 10.8% was accounted for by stocks and bonds.
[118] CBRC (2007), Appendix 8-3.
[119] According to data in CBRC (2007), Appendix 8-3.
[120] The surplus continued to grow in 2007, reaching US$18.57 billion in the first nine months.
[121] Fitch Ratings, "Chinese Banks – 2006 Ratings Season Review & 2007 Outlook", 13 December 2006.

necessary to match the sector's growth rates. After the reform, the profitability as well as the ability to withstand risks have been improved, as their relevant indicators have reached the standards required by Chinese banking regulatory authorities. The income portfolios of banks have improved and become more diversified as banks have expanded their product offering; fee-based income accounted for 17.5% of banks' total income in 2006, up from 14% in 2003.

135. Capital adequacy levels have improved, due partly to reform, restructuring, domestic and overseas initial public offerings (IPOs), the presence of institutional investors, and an increase in the issuance of capital instruments. At end 2006, 100 commercial banks, whose assets accounted for 77.4% of total commercial bank assets, met the capital adequacy ratio (CAR) of 8%.[122]

136. The Big Four have always dominated China's banking sector, and have been the primary source of funding for China's SOEs; as a result, they continue to be burdened with large NPLs. Asset quality has improved in recent years, although it continues to be a principal concern. At the end of the first quarter 2007, the ratio of NPLs over total loans of major commercial banks reached an all-time low of 7.1%, down from almost 25% in 2002; about 46% of the current stock of NPLs comes from loans to the agriculture sector.[123] However, these figures, which reflect the NPLs resident in banks' balance sheets, differ from the "total problem loans", which include the NPLs that have been transferred off the SOCBs' balance sheets and placed with state-owned asset management companies. These "NPL carveouts" no longer represent a direct drag on banks' performance, but remain a broader issue and a contingent fiscal liability for the Government. In addition, a large proportion of loans in banks' balance sheets are "special mention" loans. While rated one category above substandard, these loans (7.8% of commercial bank loans according to private sector estimates) form a grey area between normal and non-performing loans, and presumably would be the first place asset quality deterioration would become apparent in the event of less favourable economic conditions.[124]

Regulatory framework

137. The main legislation regulating the sector includes: the Law on the People's Bank of China, the Law on Commercial Banks, and the Law on Regulation and Supervision of the Banking Sector (most recently amended on 31 October 2006). In addition, guidelines have been issued to improve corporate governance and management of banks.[125]

138. Commercial banks in China are subject to a multi-layered regulatory framework, in place since 2003, involving the People's Bank of China (PBC) (e.g. for fixing interest rates, and regulating and supervising interbank transactions), the China Banking Regulatory Commission (CBRC, for most

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[122] At end 2003, only eight banks, accounting for just 0.6% of the total banking assets, met the minimum CAR of 8%.

[123] CBRC (2007), Annual Report 2006, Appendix 8-8.

[124] Fitch Ratings, 13 December 2006, "Chinese Banks – 2006 Ratings Season Review & 2007 Outlook".

[125] These include, *inter alia:* the Guidelines on the Corporate Governance of Joint Stock Commercial Banks and the Guidelines on the Internal Control of Commercial Banks. The Regulations on Administration of Foreign Financial Institutions and its Implementing Rules determine the rules under which foreign and foreign-funded banks may operate in China, while the Administrative Rules Governing the Equity Investment in Chinese Financial Institutions by Overseas Financial Institutions regulate equity investment by foreign financial institutions. A "foreign financial institution" is a commercial bank incorporated outside the territory of the People's Republic of China, following the approval or authorization by the financial supervisory authority of the country, whereas a "foreign-funded legal entity" is a wholly foreign-funded bank, a Sino-foreign joint-equity bank, a wholly foreign-funded finance company or a Sino-foreign joint-equity finance company referred to in the Regulation (Article I of the Rules for Implementing the Regulations Governing Foreign funded Financial Institutions).

aspects of banking activities), the China Securities Regulatory Commission (CSRC, for conducting fund custodian business), the China Insurance Regulatory Commission (CIRC, for conducting bancassurance business), and SAFE (e.g. for regulations dealing with foreign exchange business). Additionally, the Ministry of Finance oversees the management of SOCBs' NPLs by the asset management companies established to that effect (see below).[126]

139. The CBRC is the primary authority responsible for the regulation and supervision of banking institutions, as well as overseas operations of local institutions.[127] Its main regulatory and supervisory responsibilities have remained largely the same during the review period.[128] Banking institutions in China are regulated and supervised on a consolidated basis.

140. According to the Law on the People's Bank of China, the PBC is responsible not just for formulating and implementing monetary policy as described in Chapter I(3)(i), but also for maintaining financial stability.[129] The PBC has also kept some broad supervisory powers, beyond the normal macro-prudential control of the financial sector.[130]

Licensing requirements and procedures

141. The Law on Commercial Banks and the CBRC Rules on the Implementing Procedure for Administrative Licensing (issued on 12 January 2006) define the business scope, and set out licensing

[126] 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.

[127] In 2003, the CBRC took over supervisory and regulatory functions previously performed by the PBC. The PBC currently maintains regulation of monetary policy and financial liquidity. It sets the interest rate bands for loans and deposits as well as banks' reserve requirements. It also appears to monitor and regulate the credit expansion of a large portion of the banking system.

[128] The main regulatory and supervisory responsibilities of the CBRCs are: formulating and promulgating rules and regulations for banking institutions; authorizing the establishment, changes, termination, and business scope of banking institutions; approving products and services offered by banking institutions within their business scope; conducting fit and proper tests for directors and senior managers of banking institutions; conducting off-site surveillance and on-site examination of the business operations and risk profile of banking institutions; compiling and publishing statistics and reports of banking institutions; and guiding and overseeing the activities of the self-regulated organizations of the banking sector, which must submit their articles of association to the CBRC for filing (the Law on Banking Regulation and Supervision (enacted on 27 December 2003, and amended on 31 October 2006)).

[129] The PBC's main functions and responsibilities include: formulating and implementing monetary policy, by *inter alia* fixing "benchmark interest rates", setting reserve ratios for commercial banks, extending loans to commercial banks, and conducting open market operations; issuing renminbi (RMB) and controlling its circulation; supervising and administering inter-bank lending and the inter-bank bond market; controlling foreign exchange and supervising the inter-bank foreign exchange market; holding, administering, and managing the State's foreign reserves; and engaging in relevant international banking operations in its capacity as the central bank of the State. Under Article 4 of the Law on Anti-money Laundering, the anti-money-laundering authorities of the State Council are responsible for the administration and supervision work on this issue.

[130] 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 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 that inspection and supervision of specific institutions be conducted by the CBRC, and it may even conduct such inspection on its own if the situation of a specific financial institution may increase overall systemic risk.

and other requirements for domestic-funded commercial banks. It would appear that the licensing requirements and procedures have remained unchanged since 2006. The establishment of a commercial bank requires CBRC approval and the issuance of an operating licence.[131] 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; the applicant will then be called upon to complete the application, by providing the required information.[132] 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.[133] The expansion of the branching network domestically or overseas also requires CBRC approval, and the issuance of a licence by SAIC.[134]

142. Approval by the CBRC is required to 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, the articles of association.[135] A change in senior management must also be notified to the CBRC, and the qualifications of the new management approved.[136] 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.[137] The Law on Regulation and Supervision of the Banking Sector sets out specific time limits for certain decisions.[138]

[131] Under the law, commercial banks may engage in some or all of the following business operations: taking deposits from the general public; granting short-, medium- and long-term loans; handling domestic and foreign settlements; acceptance and discounting of negotiable instruments; issuing financial bonds; acting as an agent for the issue, honouring, and underwriting of government bonds; buying and selling government and financial bonds; interbank lending; buying and selling foreign exchange, and acting as an agent for the purchase and sale of foreign exchange; the business of bank cards; providing letter-of-credit services and guaranty; acting as an agent for the receipt and payment of money, and acting as an insurance agent; providing safe deposit box services; 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).

[132] 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.

[133] Articles 14-16 of the Law on Commercial Banks.

[134] 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, i.e., that the capital adequacy ratio be no lower than 8%; that the balance of equity investments do not generally exceed 50% of net assets; and that the balance of year-end assets in the year prior to the application is at least Y 100 billion. Additionally, 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.

[135] 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.

[136] Article 24 of the Law on Commercial Banks.

[137] Article 18 of the Law on Commercial Banks.

[138] For example, decisions regarding the establishment of banks must be made within six months of 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).

143. Since the previous Review of China, there has been no change in the minimum registered capital requirement to establish banks, or to the capital adequacy ratio (CAR). According to the law, minimum registered capital is Y 1 billion for a commercial bank, Y 100 million for an urban commercial bank, and Y 50 million for a rural commercial bank.[139] In addition, the CAR may not be lower than 8%.[140] Other requirements include: the ratio of loans outstanding by a commercial bank to related parties must be no more than 10% of the banks 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.[141]

144. Commercial banks may need further authorization to supply specific services, such as derivatives and 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, by meeting various prudential requirements, including detailed requirements 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 can provide certain personal wealth management services with guaranteed incomes.[142]

145. Commercial banks in China are generally prohibited from trading and underwriting equity securities, unless they establish a separate subsidiary for that purpose. Nonetheless, commercial banks are allowed, within their business scope, to underwrite and deal in government bonds and bonds issued by financial institutions, underwrite and deal in short-term commercial papers issued by qualified non-financial institutions in the inter-bank bond market; and deal in qualified corporate bonds in the inter-bank bond market. They can also act as agents in transactions involving securities, including bonds issued by the Government, corporate entities and financial institutions; provide asset management advisory services to institutional and individual investors; act as financial advisors in connection with large infrastructure projects, mergers and acquisitions, and bankruptcy

[139] Article 13 of the Law on Commercial Banks.

[140] Furthermore, the ratio of outstanding loans to deposits may not exceed 75%, of 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).

[141] 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).

[142] Furthermore, the Provisional Administrative Measures on Commercial Banks Conducting Offshore Client Wealth Management Services (enacted by CBRC, SAFE and the PBC), which entered into force on 17 April 2006, authorize commercial banks having obtained 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. To apply for these services, 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 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, issued by CBRC on 21 June 2006 and 10 May 2007, respectively.

reorganizations; and act as custodian for investments funds, including securities investment funds and corporate annuity funds.[143]

146. Commercial banks in China are not permitted to underwrite insurance policies, but may act as agents to sell insurance products; it was not clear to the Secretariat whether banks can establish separate insurance companies. Commercial banks providing insurance agency services are required to comply with any applicable rules issued by the CIRC, the regulator for China's insurance industry. They must obtain licences from the CIRC before conducting agency insurance business.[144] In accordance with the Notice Regarding Standardization of Agency Insurance Business Conducted by Banks issued by the CIRC and the CBRC on 15 June 2006, these licences are required for all tier one branches of commercial banks conducting such business.

147. China has been gradually promoting the establishment of fund management companies owned by commercial banks on a trial basis. So far, the Industrial and Commercial Bank of China, China Construction Bank, and the Bank of Communications have established fund management companies. A second group of banks, selected on a trial basis to be allowed to establish fund management companies, include China Merchants Bank, Bank of China, Shanghai Pudong Development Bank, Agriculture Bank of China, and China Minsheng Bank Corporation.

148. In general, commercial banks in China are prohibited from making domestic investments other than in debt instruments issued by the Government and financial institutions, commercial paper and corporate bonds issued by qualified non-financial institutions, and certain derivative products. Unless otherwise specifically decided by the State Council, commercial banks are prohibited, in China, from engaging in trust investment business, securities operations, investing in real estate other than for their own use, and making equity investments in non-banking financial institutions and entities. Commercial banks cannot supply financial leasing services directly, but by establishing a separate subsidiary.[145]

Foreign banks

149. In order to comply with the final stage of its GATS schedule of commitments, China adopted the Regulations on Administration of Foreign-funded Banks, and the Rules for Implementing the Regulations on Administration of Foreign-funded Banks, which entered into force on 11 December 2006.[146] In addition, foreign investment in Chinese financial institutions is regulated by

[143] Under the Administrative Measures on Qualifications for Securities Investment Fund Custodianship effective January 2005, a commercial bank may apply for the qualification to engage in fund custodian business of securities investment funds, if, among other requirements, the bank has year-end net assets of not less than Y 2 billion for each of the last three fiscal years, and its capital adequacy ratio meets the relevant regulatory requirement. The fund custodian must ensure the separation of its custodian business from its other businesses and the independence of its fund assets. The CSRC and the CBRC are jointly responsible for examining and approving the qualifications and supervising the activities of fund custodians. In addition, the senior manager to be appointed for a commercial bank's fund custody department must meet certain qualifications and be approved by the CSRC.

[144] Pursuant to the CIRC's Interim Measures on the Administration of Ancillary Agency Insurance Business.

[145] Under Article 9 of the Rules Governing Financial Leasing Companies, which entered into force on 1 March 2007, banks wishing to supply these services must, *inter alia*, apply for a licence, have been profitable for the last two consecutive years, and their total assets at the end of the previous year must be at least Y 80 billion.

[146] 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

the Administrative Rules Governing the Equity Investment in Chinese Financial Institutions by Overseas Financial Institutions.

150. Only foreign commercial banks that have maintained a representative office in China for at least two years prior to the application, and have total assets of not less than US$10 billion at the end of the year preceding the application, can apply for the establishment of 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 where it applies to establish its first branch. It was not clear to the Secretariat why the minimum asset requirements are higher for the establishment of branches than for locally incorporated entities, taking into account that branches are not allowed to conduct retail business. In addition, foreign financial institutions wishing to establish any type of operational foreign-funded bank must have persistent profit-earning capacity and good reputation; have experience in international financial activities; have in place an effective anti-money-laundering system; and be subject to supervision – and have the application approved – by its home country regulator.

151. The minimum registered and paid-in capital for the establishment of a wholly foreign-funded bank or a Chinese-foreign joint-venture bank is Y 1 billion. Branches opened by wholly foreign-funded banks or Chinese-foreign joint-venture banks in China must be allocated Y 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 Y 200 million as operating capital.

152. 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. Nonetheless, branches of foreign banks cannot supply bank cards; they may only receive time deposits of not less than Y 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.

153. Foreign equity participation in domestic financial institutions is restricted. Under the Administrative Measures on Equity Investments of Overseas Financial Institutions in Chinese Financial Institutions[147], no single foreign financial institution may own more than 20% of the equity of a Chinese financial institution.[148] 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 will be 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 listed Chinese financial institution will continue to be regulated as a Chinese financial institution.[149] Foreign financial institutions that the CBRC deems as related parties are counted as one financial institution when calculating such entities' equity interest in China's commercial banks.

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representative office of a foreign bank. The first three categories are referred to by the regulations as "operational foreign-funded banks".

[147] The term "Chinese financial institutions" referred to in the Rules comprise the Chinese commercial banks, urban and rural credit co-operatives, 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 the territory of the People's Republic of China

[148] Article 8.

[149] Article 9.

Lending, interest rates, and non-interest income

154. Lending and deposit-taking by banks have been deregulated since 2004, but some constraints remain. In the case of lending, the Law on Commercial Banks requires commercial banks to take into consideration "the needs of the 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. Lately, for instance, the PBC has been encouraging financial institutions to direct their lending towards small and medium-sized enterprises, job creation, student loans, migrant workers, and non-public sectors.[150]

155. In accordance with the Law on Commercial Banks, interest rates are also to be set by commercial banks "in accordance with the upper and lower limits for interest rates prescribed by the People's Bank of China". Interest rates for RMB-denominated loans and deposits were historically set by the PBC. The PBC has been gradually liberalizing interest rates since 2004, allowing banks wider discretion in determining interest rates on RMB-denominated loans and those offered on RMB-denominated deposits.[151] Currently, market-based interest rates are allowed in the money and bond markets, and commercial banks may charge lending rates above the benchmark (but not below 90% of the benchmark), and offer deposit rates below (but not above) the benchmark.[152] According to the authorities, future efforts will focus on the development of the basic interest rate system in China’s money market, applying market-based measures to determine the interest rates of deposits, improving the interest rate formation mechanism, and gradually improving Central Bank indirect instruments of monetary policy.

156. Currently, there are no restrictions on interest rates for foreign-currency-dominated loans, foreign-currency-denominated deposits over US$3 million, or foreign-currency-dominated deposits of less than US$3 million with a maturity of more than one year. However, a maximum interest rate has been set for certain foreign-currency-dominated deposits of less than US$3 million with a maturity of

[150] PBC (2007).

[151] The current policy is based on the establishment of benchmark rates, as well as a lower and upper limit around these rates. Banking institutions must set their rates within the limit[0]s. Different ceilings apply to loans provided to different types of enterprises and extended by different types of financial institutions. Prior to 2004, commercial banks' and urban credit cooperatives' interest rates on loans to SOEs, as well as rates on loans by policy banks and those specified by the State Council, could not be higher than the benchmark rate. The upper limit for loans by commercial banks and urban credit cooperatives to large enterprises and to SMEs was 110% and 130% of the benchmark rate, respectively; the upper limit for rural credit cooperatives' loans was 150%. The lower limit of the lending rates of all financial institutions was 90% of the benchmark rate. Deposit rates had to be fixed at the benchmark level. On 1 January 2004, the PBC decided to raise interest rates and widen the floating band of lending rates by increasing the upper limits: the lending rate upper limit was raised to 170% of the benchmark for commercial banks and urban credit cooperatives; and to 200% for rural credit cooperatives. In October 2004, the PBC eliminated the upper limit on lending rates charged by commercial banks (the upper limit of urban and rural cooperatives was raised to 230% of the benchmark), and the floor on deposit rates offered by all financial institutions. Therefore, since 29 October 2004, commercial banks have been able to charge lending rates above the benchmark (but not lower than 90% of the benchmark), and offer deposit rates below – but not above - the benchmark.

[152] Mortgage loans have been subject to a different policy. Prior to March 2005, the PBC fixed a preferential interest rate for residential mortgage loans, which was lower than the benchmark rates of other loans with similar maturity. On 17 March 2005, the PBC eliminated the preferential interest rates on mortgage lending, and allowed banks to charge rates 10% lower than the benchmark (as for other types of credits). The lower limit for mortgage loans was reduced from 90% to 85% of the benchmark rate on 19 August 2006. Together with the rise on down payment for mortgage loans from 20% to 30%, the rise in mortgage rates allowed the PBC to influence the real estate market, where prices were believed to be rising too fast in 2005.

one year or less. The foreign currencies involved include: U.S. dollars, yen, euros, and Hong Kong dollars.

157. Non-interest income is also regulated. Under the Interim Measures for the Management of the Service Prices of Commercial Banks, certain services are subject to regulated prices: basic RMB settlement services (e.g. bank drafts, bank acceptances, promissory notes, checks, entrusted collection); and other commercial bank services determined by the CBRC and the State Development and Reforming 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".

Recent reforms

158. China's history of heavy state involvement in and control over the banking sector has resulted in significant governance and financial problems. Poor asset quality and weak profitability and capitalization have been among the most significant.[153] Restructuring the banking sector and dealing in particular with these problems have been the major focus of Chinese authorities since the mid-1990s. The key measures undertaken include: the establishment of policy banks (to relieve SOCBs from directed lending and industrial policy objectives); significant injections of capital into SOCBs; and the transfer of NPLs from SOCBs to state-owned asset management companies (AMCs).

159. Since 1998, recapitalization of SOCBs has amounted to US$93 billion. In August 1998, the Government recapitalized the Big Four SOCBs through the issuance of Y 270 billion in government bonds (US$33 billion), which led to a more-than-doubling of their capital base. Another round of recapitalization took place between 2003 and 2005. In that period, the PBC injected some US$60 billion capital out of its foreign reserves into three of the Big Four SOCBs (China Construction Bank, Bank of China, and Industrial and Commercial Bank of China). A state-owned investment company (Central Huijin Investment Corporation Limited (Huijin)) was established in 2003 to channel foreign exchange reserves from the PBC into these three commercial banks. In June 2004, the Bank of Communications received a capital injection of Y 34 billion (US$4 billion) through a transaction involving Huijin as well as the Ministry of Finance and other shareholders, the National Social Security Fund, and a foreign bank (HSBC), which acquired a 19.9% stake in the bank.[154] Huijin has recently been reported as planning to inject US$40 billion into the Agriculture Bank of China[155], and US$20 billion into the China Development Bank.[156] When the recapitalization of China's banks is completed, it will represent the largest injection of fiscal or quasi-fiscal funds into any banking system in history.[157]

160. In addition to capital injections, restructuring is being accomplished through the disposal of NPLs, arguably one of the most important problems in the Chinese banking system. In order to deal with these NPLs, the Ministry of Finance established four asset management companies (AMCs), one

[153] Testimony of Michael Petit, Managing Director, Standard & Poor's Asia-Pacific Corporate & Government Ratings, at the US-China Economic & Security Review Commission, 22 August 2006.

[154] Ma (2006).

[155] China View online information, "China may inject US$40 billion into Agricultural Bank", 5 August 2007. Viewed at: http://www.chinaview.cn.

[156] China View online information, "CDB to go commercial", 6 August 2007. Viewed at: http://www.chinaview.cn. According to the authorities, at the time of writing, the reform plan for the Agriculture Bank of China and the China Development Bank was still under consideration.

[157] World Bank (2005).

for each of the Big Four SOCBs.[158] The AMCs are wholly state-owned non-bank financial institutions; each with registered capital of Y 10 billion (approximately US$1.2 billion). The AMCs' resources came from the Ministry of Finance's capital injections, from PBC credit, and from the ten-year bonds issued by the AMCs to their respective SOCBs.[159] Initially, during 1999 and 2000, some Y 1.4 trillion (US$170 billion) of NPLs were transferred from the Big Four SOCBs to the AMCs; transfers in 2004 and 2005 have been estimated at Y 1.2 trillion.[160] It is difficult to estimate the amount of unresolved NPLs, as the AMCs generally report only amounts disposed of from the original 1999-00 transfers. At end 2006, Y 1.2 trillion of the original transfer loans appear to have been resolved, leaving large amount still on the banks.[161]

161. Estimates of NPLs vary: according to CBRC, NPLs of all commercial banks amounted to Y 1.25 trillion (7.1% of total loans) at end 2006; according to data provided by the authorities, they totalled Y 1.26 trillion (6.4% of total loans) at end-July 2007. Nonetheless, the improvement in banks' asset quality has taken place in a period of rapid loan growth, massive injections of capital, and NPL carve-outs in the Big Four. According to independent estimates, NPL ratios might be higher if adjusted for the above-average loan growth in recent years. The large number of "precautionary" or "special mention" loans lying on Chinese banks' balance sheets also raise concerns. Rated one category above substandard, while these loans can be considered as performing thus far, they might pose a material risk to bank capital.[162]

162. These clean-up measures (recapitalization and NPLs carve-outs) were taken in preparation for the introduction of foreign strategic investors in Chinese banks and, subsequently, for the listing of these banks in stock markets. The purpose of the strategy has also been to diversify ownership, improve corporate governance, and facilitate transfers of know-how.[163] The strategic investors must be major international banks with substantial commercial expertise; own less than 20% of shares; and cooperate in one or more non-core banking services, such as credit cards, investment banking, wealth management, and information technology.[164]

163. Since 2004, foreign strategic investors have acquired shares of four of the five largest SOCBs.[165] Foreign strategic investors have also been attracted to the smaller joint-stock and city commercial banks.[166] By end 2006, 29 foreign financial institutions had invested a total of

[158] China Cinda AMC for the China Construction Bank; China Great Wall AMC for the Agriculture Bank of China; China Orient AMC for the Bank of China; and China Huarong AMC for the Industrial and Commercial Bank of China. In August 2005, a fifth AMC, Huida Asset Management (majority-owned by China Cinda) was established to resolve the PBC's NPLs.

[159] Ma and Fung estimated that the sources of AMC's resources were distributed as follows: 83% from the 10-year bond issued by the AMCs to their respective SOCBs, 14% from PBC credit, and the remaining 3% from capital injections by the Ministry of Finance (Ma and Fung (2002)).

[160] Price Waterhouse Coopers (2006).

[161] Price Waterhouse Coopers (2007b).

[162] FitchRatings (2006). About half of the current stock of NPLs is concentrated on the balance sheet of the Agricultural Bank. At end 2005, special mention loans were estimated at 11% of large banks' total loans (some US$120 billion), excluding the Agricultural Bank, which does not report "special mention" data.

[163] Ma (2006).

[164] Leigh and Podpiera (2006).

[165] HSBC acquired a 19.9% stake in Bank of Communications in the biggest transaction so far; Goldman Sachs, Allianz, and American Express acquire a combined 8.88% stake in Industrial and Commercial Bank of China; the Royal Bank of Scotland, UBS, and Temasek Investment acquired a 16.61% in Bank of China; and Bank of America and Temasek Investment acquired a 14.1% share in China Construction Bank.

[166] For example, among the joint-stock commercial banks, Citigroup acquired a 5% stake in Shanghai Pudong Development Bank, and led a consortium that acquired 85% of Guangdong Development Bank (of which 20% belongs to Citigroup); Deutsche Bank acquired 9.9% of Huaxia Bank, and has been authorized by

US$19 billion in 21 Chinese commercial banks, of which US$16 billion to the four SOCBs.[167] The participation of strategic investors was a critical step in the preparations for the international public offering (IPOs) of the major SOCBs on the Hong Kong Stock Exchange.[168] In all, at end 2006, the major SOCBs had raised almost US$47 billion.[169]

164. The year 2006 marked a key step in the further opening-up of the banking sector. The State Council promulgated the Regulation on the Administration of Foreign-funded Banks in November 2006, followed by the CBRC's Rules for Implementing the Regulations on the Administration of Foreign-funded Banks (see Regulatory framework). As a result, geographic and customer restrictions on RMB business, as well as other non-prudential restrictions on foreign bank operations, were lifted on 11 December 2006. In September 2007, six operational foreign-funded banks were allowed to conduct retail business, and nine foreign banks were in the process of converting branches into subsidiaries.

165. Improving corporate governance has also been a focus of reform in recent years. Based on the Guideline on the Corporate Governance Reforms and Supervision of the Bank of China and Construction Bank of China (implemented in April 2004), the CBRC issued the Guideline on the Corporate Governance Reforms and Supervision of State-owned Commercial Banks on 16 May 2006. This further enhanced requirements on corporate governance and internal control and set up a quantitative benchmark based on seven parameters covering: operational performance (net return on total assets; net return on equity; and expense-revenue ratios), asset quality (NPL ratios), and prudential operations (capital adequacy ratios, large exposure concentration, coverage ratio of loan-loss provisions).[170]

166. Reforms have also been introduced into rural credit cooperatives, including changes to the corporate structure and management based on three models. As a result, 27 provinces (regions and municipalities) established integrated provincial credit cooperatives; Beijing and Shanghai changed the Rural Credit Cooperatives into rural commercial banks; and Tianjin established a rural cooperative bank with separate legal entities at the municipal and district (county) level.[171]

167. A significant development during the review period was the reform of the postal system, and the establishment of the China Postal Savings Banks (CPSB). Established on 31 December 2006, the CPSB is a wholly owned subsidiary of the China Postal Group. At end 2006, it had a deposit base of Y 1.7 trillion with over 36,000 outlets throughout the country, more than two thirds in rural areas.

the shareholders to increase to 20%; and Standard Chartered acquired 19.9% share of Bohai Bank (see Leigh and Podpiera (2006) for more details).

[167] Among the foreign institutional investors, 18 banking institutions account for 62.1% of total investment; three investment banks account for 10.4%; and eight other types of institutions account for 27.6%. The overseas investors are from the United States (6), Germany (5), the UK (4), Singapore (3), international financial institutions (2), the Netherlands (2), Hong Kong China (2), Australia (2), Switzerland (1), France (1) and Canada (1) (CBRC (2007); and Leigh and Podpiera (2006)).

[168] The IPOs of Bank of China in 2005 and Industrial Commercial Bank of China in 2006 were dual IPOs, involving both the Hong Kong Stock Exchange (for H shares) and the Shanghai Stock Exchange (for A shares).

[169] This consists of: US$21.9 billion to the ICBC; US$13.6 billion to the BOC; US$2.16 billion to the BOCom; and US$9.2 billion to the Construction Bank of China. City commercial banks are expected to follow suit, and raise capital through listing (Xinhua, 19 June 2007, "China's first city-level commercial banks set to go public". Viewed at: http://bgt2.mofcom.gov.cn/aarticle/workaffair/200706/20070604805272.html [14 February 2008]).

[170] See CBRC (2007) for more detailed information on the seven parameters.

[171] Besides the three modes for the establishment of provincial credit cooperatives, rural credit cooperatives can be transferred into integrated corporations, rural cooperative banks or rural commercial banks.

Although supervised as a commercial bank by the CBRC, it will continue to use the national postal network as the basis for its operations. It is expected to provide basic financial services, including retail and fee-based services, to town and village communities and rural residents.

168. As part of its policy to support rural areas, the CBRC relaxed the market entry policy for banking institutions in rural areas through the Guidelines on Adjusting the Market-entry Threshold for the Banking Institutions in Rural Area, of December 2006. Investors (including foreign) are thus encouraged to invest in rural financial services by establishing village and township banks, lending companies, and rural funding cooperatives; while existing commercial banks and rural cooperative banks are encouraged to set up branches in under-banked rural areas. This policy is aimed at improving the coverage of banking outlets in rural areas. The reform of the Agricultural Bank and the creation of the CPSB are part of this policy.[172]

169. Other regulatory initiatives in 2006, aimed at promoting innovation in the rural banking sector, included the Guidelines on Rural Cooperative Financial Institutions' Lending to Small Enterprises, the Guidelines on Corporate Group Loans by Rural Cooperative Financial Institutions, and the Guidelines on Banking Institutions Carrying out Agency Business in Rural Areas.

170. The current rules on capital adequacy were introduced in February 2004 and revised in July 2007 by the CBRC (Rules Governing Capital Adequacy of Commercial Banks). They are based on the 1988 Basel Capital Accord (Basel I). Chinese authorities have decided to implement the new Basel Capital Accord (Basel II) gradually. The CBRC divided commercial banks into two groups, subject to different requirements. The "new capital accord banks" (i.e., large commercial banks that play an active role in other countries' or regions' financial markets, and whose overseas business accounts for a substantial share in their total business activities) will start to implement Basel II at end 2010, and no later than the end of 2013. Other commercial banks, including foreign bank subsidiaries in China, may apply to implement Basel II on a voluntary basis. Otherwise, they will remain subject to the current capital requirements.[173]

171. Measures dealing with electronic banking have only recently been introduced, in an effort to enhance risk management and security standards in the sector. Under the CBRC Administrative Measures on Electronic Banking Business and the Guidelines on Electronic Banking Security Evaluation of January 2006, all banking institutions applying to establish an e-banking business are required to have sound internal control and risk management system and should not have any major incidents relating to their primary information management and operations processing systems in the year prior to application. In addition, all banking institutions conducting e-banking business must adopt security measures to protect highly confidential data and the security of transaction information and to prevent the unauthorized use of e-banking accounts.

172. Taxation of the banking system changed significantly upon entry into force of the Enterprise Income Tax Law on 1 January 2008; a unified tax rate of 25% has been applied to domestic banks and operational foreign-funded banks.[174] The business tax rate is 5%, and is assessed on gross income from interest and fees, minus income from financial institutions and agency fees on

[172] As decided in the financial working conference in early 2007, the Agriculture Bank is to be oriented to agriculture, rural areas and peasantry, should operate under commercial considerations, and should seek a proper chance to be listed in the stock market.

[173] CBRC (2007).

[174] Previously, China's banks had been penalized by the tax system, including corporate income tax and a business tax. The income tax rate was 33% although banks providing only foreign currency business are taxed at a rate of 15% (Ernst and Young (2003)).

government bonds.[175] Banks are allowed to deduct 1% of the balance of loans from income before taxation. In addition, all write-off loans can be deducted before taxation.

173. According to the authorities, a report on measures for the implementation of a deposit insurance mechanism, drafted by an ad-hoc working group, is before relevant ministries and committees for comments.

(c) Insurance

Market overview

174. The number of insurance companies has increased notably in the last two years: from 80 companies at end 2004 to 113 at end 2006, among which there were 7 insurance groups[176] and 106 insurance companies (59 domestically-funded, including nine insurance asset management companies, and 47 foreign companies from 15 countries). In addition, 133 foreign insurance companies from 20 countries (regions) had established 195 representative offices in China. By the end of 2006, there were 2,110 insurance agencies (367 of which were established that same year), and 303 insurance brokers, of which 5 are foreign-owned or joint-ventures with foreign investment. Between 2005 and 2006, ten new domestic insurance companies (including insurance asset management companies) and eight foreign insurance companies were allowed to enter the market.[177]

175. China's insurance market showed strong growth between 2001 and 2006, to reach Y 510.2 billion. Life premiums represent almost three quarters of total premiums (Table IV.6). In spite of the impressive growth, the market remains underdeveloped in terms of insurance density and penetration. Insurance expenditure in 2006 was only US$53 per capita (US$34.1 on life, and US$19.4 on non-life insurance), which places China in the 70th worldwide; the penetration rate was just 2.7% (1.7% for life and 1% for non-life), putting China in 47th position.[178]

Table IV.6
Insurance premiums, 2001-06
(Y billion and % of total)

	2001	2002	2003	2004	2005	2006
Non-life	68.5	78.0	86.9	112.5	128.3	150.9
	(32.5)	(25.5)	(22.4)	(26)	(26)	(29.6)
Life (including health and accident)	142.4	227.4	301.1	319.4	364.9	359.3
	(67.5)	(74.5)	(77.6)	(74)	74)	(70.4)
Total	210.9	305.4	388.0	431.8	493.2	510.2

Source: National Bureau of Statistics of China (for 2001-05); and *International Herald Tribune* for 2006 "Chinese Insurance market expanded 14% in 2006", 22 January 2007).

176. The insurance premiums of foreign companies grew by 74.9% between 2005 and end 2006, to reach Y 25.9 billion, accounting for about 5% of the national market share. Total assets of foreign insurance companies at end 2005 amounted to Y 86.3 billion, accounting for 4.38% of the total assets of the sector (up from 1.96% in 2001). Although their market share accounts for only about 5%,

175 WTO (2006).

176 The six holding companies are China People's Insurance Holding Company (PICC); China Life Insurance (Group) Company; China Reinsurance (Group) Company; China Insurance Holding Company; China Pacific Insurance (Group) Company Limited; and China PingAn Insurance (Group) Company Limited.

177 Data provided by China Insurance Regulatory Commission (CIRC).

178 Swiss Re (2007).

foreign insurance companies' total income would account for 27.4%, if the foreign-invested share in Chinese insurance companies were taken into consideration.

177. Despite an increase in competition in recent years, the Chinese insurance market remains highly concentrated. According to official information, the market share of the three largest life insurance companies fell from 83.2% in 2004 to 71.6% in 2006, while the share of the three largest non-life companies fell from 79.9% to 67.25%. The life and non-life markets continue to be dominated by China Life and China People's Insurance Holding Company (PICC), whose market shares in 2006 were 45.3% and 45.1%, respectively.[179] The Chinese authorities expect that concentration will decrease in coming years, due to increased competition and the entry of new players.

Legislative and regulatory framework

178. The insurance market continues to be regulated by the China Insurance Regulatory Commission (CIRC) under the State Council. The CIRC is responsible for registering new insurance providers, as well as new products and activities.

179. The main legislation administering insurance services is the Insurance Law, enacted in June 1995 and updated in October 2002. It regulates all commercial insurance activities in China (excluding social security insurance).[180] In addition, CIRC has issued several rules and regulations governing the conduct of insurance activities. Under the law (Article 7), all insurance companies providing insurance services in China must be registered, and all legal persons (including natural persons) or organizations in China requiring coverage in China must purchase insurance services from an insurance company registered and established in China.

180. Insurers may engage in property insurance (insurance against loss or damage to property, liability insurance, and credit insurance) or personal insurance (including life insurance, health, and accident and injury insurance).[181] They may not concurrently provide property and personal insurance services, although an insurance company engaged in property insurance may, upon approval from the CIRC, provide short-term health and accidental injury insurance.[182] At end 2006, there were 38 property insurance companies that were allowed to supply short-term health and accident insurance services.[183] Subject also to approval, insurance companies may engage in outward and inward reinsurance with respect to the direct insurance business for which they have received authorization. According to Article 103 of the Law, if an insurance company needs to buy reinsurance, it must give priority to insurance companies established in China.[184] However, compulsory cession was eliminated on 1 January 2006.[185]

181. Licensing procedures consist of two steps.[186] The applicant must submit a formal written application containing the name, registered capital, and scope of business foreseen; a feasibility study

[179] Economist Intelligence Unit (2006a), London.

[180] The Insurance Law covers insurance contracts relating to people and property; insurance companies, agents, and brokers; insurance sector supervision and regulations; and legal responsibilities of agents.

[181] Chapter IV of the Insurance Law.

[182] Article 92 of the Insurance Law.

[183] Data provided by CIRC.

[184] According to the authorities, to "give priority" means to give the priority of offering reinsurance contracts.

[185] CIRC Gazette No. 109 regarding compulsory cession.

[186] Articles 74 to 78 of the Insurance Law.

report; and other documents that may be requested by the CIRC. If the applicant passes the preliminary examination, it must submit a "completed formal application form" together with other documents, such as the articles of association of the insurance company; a list of shareholders and their respective shares; and the qualifications of proposed senior management. The decision on this formal application must be made within six months of submission. Once the licence has been obtained from CIRC, the insurance company must register and obtain a business licence from the State Administration for Industry and Commerce. This must be completed within six months of issuance of the insurance business licence.

182. When deciding to grant a licence, the CIRC must take into account the sustainable, sound, and fast development of the insurance industry; the need for fair competition; and China's economic and regional development. As a result, companies applying to provide services in central, western, and north-eastern China or in agriculture, health, and pensions are given priority.

183. Under the Insurance Law, an insurer may establish either as a limited liability company or a wholly state-owned company; it must have a minimum of Y 200 million in registered capital (of which 20% must be deposited with an approved guarantee fund), qualified management, a sound organizational structure, and sufficient facilities.[187] An insurance company wishing to establish a branch inside or outside China's territory must seek the approval of CIRC and obtain a licence to carry on insurance business for such a branch office. If a company wishes to open its first branch in a province, autonomous region or municipality, other than its place of domicile, it must increase its registered capital by not less than Y 20 million. A company with registered capital of Y 500 million and "sufficient solvency" does not need to further increase its registered capital when establishing additional branches. Any changes in an insurer's activities must first be approved by the CIRC.[188]

184. Some insurance products and rates are subject to approval. Regulatory approval is needed for forms and rates for products having a "bearing on the interests of the public" (e.g. public security liability insurance products), for compulsory insurance products, and for newly developed life insurance products. In the case of all other products, forms and rates must be submitted to the regulatory authority just for the record.

185. Supervision and inspection continues to be carried out through a combination of on-site and off-site regulations, as stipulated in Chapter V of the Insurance Law and Chapter VIII of the Rules on Administration of Insurance Companies.

Foreign insurance companies

186. Since the previous Review in 2006, there have been no significant changes to requirements concerning the establishment and operations of foreign insurance companies, which are governed by the Regulations on Administration of Foreign-funded Insurance Companies and the Detailed Rules for Implementation of Regulations on Administration of Foreign-funded Insurance Companies.

187. In order to obtain a licence, foreign companies must fulfil the following requirements: no less than 30 years of experience in the insurance business; no less than two years since the establishment of a first representative office in China; no less than US$5 billion in gross assets at the end of the year prior to application; a sound supervision system in the home country; adequate solvency by the standards established in the home country; approval of the application by the authorities in the home

[187] Articles 70, 72, 73, and 79.
[188] Changes in activities include the formation of branch offices, a change in the name of the company or the business premises, and changes in registered capital, scope of the business or in investors holding more than 10% of the company's shares.

country; and other prudential conditions established by the CIRC, including sound corporate governance, a good risk management system, complete internal control, effective management information system, and good performance, including no record of illegal behaviour. Minimum registered capital of a joint-venture insurance company is set at Y 200 million; and 20% of actual paid-up capital should be set aside as guarantee. Foreign insurers wishing to set up wholly owned branches in China must deposit no less than Y 200 million as operating capital; after establishment, branches are required to submit 20% of their capital as a guarantee to be deposited in a bank designated by the CIRC. An additional capital requirement of Y 20 million is requested for each additional branch. If the minimum capital of a joint-equity or wholly owned insurance company is Y 500 million, and its solvency is adequate, no increase of registered capital is required for the establishment of additional branches. This requirement also applies to foreign branches of insurance companies seeking to open additional branches in China. Foreign insurance companies are allowed to enter the market as 100% foreign-owned subsidiaries for non-life insurance and up to 50% foreign-owned for life insurance.[189]

188. Corporate legal persons may invest in insurance companies; however, with the exception of insurance shareholding and insurance companies approved by the CIRC, such investment should not exceed 20% of the company's shares. In addition, total shares held by overseas shareholders should be less than 25% of total shares; if this shareholding exceeds 25% the company becomes a "foreign invested insurance company" and is subject to the laws regulating such companies.[190]

Brokers and agents

189. The Rules on the Administration of Insurance Brokerage Institutions regulate insurance and reinsurance brokerage business. According to the Rules, foreign or domestic insurance brokers may establish as partnerships, limited liability companies, and joint-stock limited companies. The minimum registered capital requirement is Y 5 million for partnerships and limited liability companies, and Y 10 million for joint-stock limited companies. They must also submit 20% of their capital as a guarantee or to purchase professional liability insurance. In addition, the senior managers and staff are subject to qualification requirements, including a local written examination to obtain a "Qualification Certificate for Insurance Industry Personnel", unless the staff has at least three years management experience; no less than two persons in senior management (or equivalent to at least half of the brokerage's employees) must obtain the Qualification Certificate.

190. After one year of establishment insurance brokerage institutions may set up three branches in the province, the autonomous region or the municipality[191] of their domicile; and three additional branches in areas other than their domicile. When establishing a branch in an area for the first time, a company must add Y 1 million to registered capital. This is not required for further branches in the same area, nor for brokerage institutions with registered capital or capital contribution of at least Y 20 million. Insurance brokers' licences must be renewed every two years. No foreign equity limitations apply for the establishment of insurance brokerage institutions.

191. According to the Rules on the Administration of Insurance Agency Institutions, domestic or foreign insurers may establish as partnerships, limited liability companies, or joint-stock limited companies. The minimum registered capital requirement is Y 500,000 for partnerships and limited liability companies, and Y 10 million for joint-stock limited companies. Insurance agencies can only operate in the area in which they are established; there are no quantitative limitations on the number of additional branches they can open in that area; however, there is a Y 100,000 minimum capital

[189] According to CIRC, there are no plans to eliminate this foreign equity limitation on life insurance.
[190] Chapter I, Section 5 of the Regulations Governing Insurance Companies.
[191] In this paragraph, the municipality refers to the one directly under the Central Government.

requirement for the establishment of each branch. This additional capital is not required if the agent's minimum capital is Y 2 million or more.

Reinsurance services

192. Under the Regulations on the Administration of Reinsurance Business, which apply to both domestic and foreign insurance companies, direct insurance companies established in China must provide a right of first refusal for 50% of their reinsurance programmes with domestically admitted reinsurance companies.

Insurance asset management companies

193. The Provisional Regulations on the Administration of Insurance Asset Management Companies allow foreign and domestic insurance companies to establish insurance asset management companies; they must be established either as limited liability companies or as companies limited by shares. In order to establish an insurance asset company, non-life companies must have total assets of at least Y 5 billion, while life insurance companies and insurance holding groups must have at least Y 10 billion. Companies must have engaged in the insurance business in China for at least eight years.

(d) Securities

Market overview

194. The main components of China's capital market are the equity market, the bond market, and the futures market. The reform of state-owned enterprises' (SOEs) ownership, corporate governance, and financing mechanisms has accompanied the recent development of China's stock markets. China's secondary stock market comprises two exchanges established at the end of 1990 (Shanghai and Shenzhen).[192] Over the years, China's exchanges have developed into an integrated marketplace, with 145 members in Shanghai and 177 members in Shenzhen controlling more than 3,000 business branches all over the country.

195. Shenzhen Stock Exchange has had a NASDAQ-like small and medium-sized enterprise (SME) board since May 2004, which is open to growing SMEs with outstanding businesses, and to innovative high-tech start-ups; it is run semi-independently, with its own index, trade code, and supervisory system. Companies that seek listings on the SME board are subject to the same requirements as for the main Shanghai and Shenzhen exchanges (e.g. entrants are required to show a three-year profit record). At end 2006, 102 companies were listed on the SME board, raising a total amount of Y 18 billion. Market capitalization of the SME board amounted to Y 201.53 billion, accounting for 11.33% of total market capitalization of the Shenzhen Stock Exchange.

196. Since their inception, both stock exchanges have been among the world's fastest growing equity markets. More than 1,400 companies are listed on the two exchanges (60% at Shanghai and 40% at Shenzhen), with a combined market capitalization of US$4,475 billion at end 2007.[193] Together, these two stock markets are now Asia's second largest, after Japan, and roughly on par with

[192] Both exchanges are non-profit legal entities governed by a board of directors, and employing a membership system. Only full members are allowed to trade on the exchange, and only securities-related businesses can apply for membership. Both exchanges have modern trading infrastructure. Stock trading is order-driven and fully automated with electronic trading, and the computer systems allow for high volume trading (up to 60 million deals a day in Shanghai and up to 20 million deals in Shenzhen).

[193] World Federation of Exchanges (2007 and 2008).

the Hong Kong SAR. While the performance of the two markets was poor between 2000 and 2004, gains were impressive between 2005 and 2006, when market capitalization increased by 220.6% in Shanghai, and by 97.1% in Shenzhen, and between 2006 and 2007, when market capitalization increased by 302.7% in Shanghai and by 244.2% in Shenzhen.[194] Growth continued in the first half of 2007, with Shanghai growing by 335.2% and Shenzhen 199.2%. Total market capitalization increased from 36% of GDP in 2003 (the lowest level in the decade) to around 43% of GDP in 2006 (Table IV.7). Tradeable stock market capitalization (see below) was much lower, amounting to only 12% in 2005. According to the authorities, after the reform, all corporate stocks have already been transformed to tradeable shares, subject to certain "lock-up" period, during which major shareholders cannot sell shares.

Table IV.7
Overview of the stock market, 2000-06

YEAR	NUMBER OF LISTED COMPANIES (A & B SHARES)	TOTAL CAPITAL RAISED (Y BILLION)	NUMBER OF STOCK INVESTMENT ACCOUNTS (MILLIONS)	MARKET CAPITALIZATION (Y BILLION)		MARKET CAPITALIZATION TO GDP (%)	
				Total	Tradeable	Total	Tradeable
2000	1,088	210.31	58.01	4,809.09	1,608.75	53.79	17.99
2001	1,160	125.23	66.50	4,352.22	1,446.32	45.37	15.08
2002	1,224	96.18	68.82	3,832.91	1,248.46	37.43	12.19
2003	1,287	135.78	69.93	4,245.77	1,317.85	36.38	11.29
2004	1,377	151.09	72.11	3,705.60	1,168.90	23.18	7.31
2005	1,381	188.25	73.36	3,243.00	1,063.10	17.64	5.78
2006	1,434	559.93	78.74	8,940.39	2,500.36	42.69	11.94

Source: CSRC (2004), *Annual Report*; National Bureau of Statistics China; and data provided by the authorities.

197. The fast expansion of the market has been brought about by an unprecedented stock boom, which has given rise to various market malpractices. In the first half of 2007, the CSRC reportedly fined 16 listed companies and two brokerage firms, warned 134 individuals, and banned 46 people from entering the stock market.

198. The Chinese stock market used to be characterized by a split-share structure, with large volumes of non-tradeable state-owned and legal person shares.[195] As a result, only around one third of shares listed in both exchanges were subject to trading[196], which put public investors in an inferior position relative to the holders of non-tradeable shares in making corporate policies and disposing of firms' profits and assets. In 2004, the Government initiated a reform, and more than 1,000 state-owned listed companies initiated a gradual conversion of their non-tradeable shares into A shares, which are tradeable. As a result, there are currently three types of shares: A shares, B shares, and overseas-listed shares (Box IV.3).

199. Additionally, China's stock market has few institutional investors. There are about 50 active fund managers, fewer insurers, and almost no pension funds in a market dominated by retail

[194] World Federation of Exchange (2008).

[195] "State shares" were shares in SOEs held by governmental agencies. They were not allowed to be traded on an open market. Legal person shares were shares of a joint-stock company owned by another company or institution with a legal person status. The legal person shares could be held indirectly by the State if the shareholders were state-owned companies. The transfer and trading of legal person shares was also restricted.

[196] As a consequence, the ratio of tradeable market capitalization to GDP was less than 12% in 2005.

investors.[197] Of the 76.5 million accounts opened with the China Securities Depository and Clearing Corporation (CSDCC), only 380,000 belong to institutional investors.[198] Nonetheless, according to the authorities, market capitalization by mutual funds, commercial insurance institutions, social security funds, enterprise annuity, and qualified foreign institutional investors (QFII) has been expanding rapidly, currently accounting for 40% of all tradeable share.

Box IV.3: Types of shares in the Chinese market

A-shares are denominated in local currency, can be freely traded and transferred in domestic markets, and were originally reserved for Chinese individuals and legal persons. But since 2002, qualified foreign institutional investors (QFIIs) have been allowed to invest in A-shares, though no single QFII may hold more than 10% in a listed company, and aggregate ownership of shares by QFIIs cannot exceed 20%. QFIIs must keep their investments in China for at least a year, after which the principal can be remitted back in instalments of 20%. Applications to qualify as QFII must be approved by the CSRC, while the SAFE is responsible for approving the investment limits. According to the Provisional Rules on QFIIs Investments in Domestic Securities, of 2002, applicants must, *inter alia*: (i) be categorized as fund-management companies, securities companies, insurance firms or other fund-management institutions, including commercial banks; (ii) have managed at least US$10 billion in securities in the last fiscal year prior to approval; and (iii) be located in a country whose securities regulator has signed an MOU on cooperation in the regulatory field with the CSRC. A total of 37 MOUs have been signed with 33 jurisdictions. The Provisional Rules also set specific requirements for applicants, depending on their core business. Fund-management companies must have been in business for at least five years; securities companies and insurers for at least 30 years, and have paid-in capital of at least US$1 billion; commercial banks must be among the 100 largest in the world. In addition, the rules allow banks with a paid-in capital of at least Y 8 billion (including foreign banks with an operating history of at least three years in China) to act as custodians for QFIIs. State shares and legal person shares were turned into A-shares as a result of the split-share structure reform.

B-shares are domestically listed shares of China-incorporated companies, denominated in U.S. dollars in Shanghai and HK dollars in Shenzhen. They were originally reserved for foreign investors, but in February 2001 Chinese individuals and legal persons with foreign currency accounts were also allowed to own them.

Overseas-listed shares are shares issued by Chinese companies listed on securities markets outside Mainland China. There are basically four categories: H-shares, N-shares, L-shares, and S-shares. H-shares are shares of Chinese companies (mainly restructured SOEs), offered and traded on the Hong Kong Stock Exchange. They are denominated in RMB, but subscribed and traded in HK dollars. They may only be purchased and traded by Hong Kong local investors or international investors. N-shares are issued – mostly in the form of American Depository Receipts – to foreign investors in U.S. stock exchanges. Dividends are declared in RMB but paid in U.S. dollars. L-shares are issued on the London Stock Exchange according to an MOU signed between the relevant U.K. and Chinese authorities in 1996. S-shares are offered on the Singapore Stock Exchange.

Source: Information provided by the Chinese authorities.

200. The Chinese bond market emerged in 1981, with the issuance of bonds by the Government. It has grown rapidly but remains fairly illiquid and dominated by government bonds. There are basically four categories of bonds in the market: government or treasury bonds (T-bonds); central bank bonds; financial institutions bonds (F-bonds); and enterprise bonds (E-bonds). Government bonds or T-bonds are issued by the Ministry of Finance, and are used to finance the

[197] See KPMG (2006).

[198] "China's Capital Markets: Review and Expectation", presentation by Mr. Shang Fulin,Chairman, CSRC, at the London School of Economics, on 17 November 2006. Viewed at: http//www.lse.ac.uk/ collections/LSEPPublic LecturesAndEvents/pdf/20061117_Shang.pdf [19 February 2008].

Government's fiscal and investment policy. T-bonds adopt mainly two forms – voucher government bonds and book-entry government bonds – which differ in the way they are distributed and traded. Voucher bonds are sold directly to individual investors through selected banks, and are not tradeable in the secondary market; book-entry bonds are issued to members of the bonds underwriting group by auction, and are subsequently traded in the interbank market, at exchanges, or in the over-the-counter market. Central bank bonds are issued by the People's Bank of China (PBC) to financial institutions in the interbank market. Financial institutions bonds are issued by policy banks (policy banks F-bonds) and by commercial banks (commercial banks F-bonds). Enterprise bonds (E-bonds) are issued by corporations, and mainly traded on the stock market.

201. Currently, China's bond market consists of three main markets: the interbank market, the bank-counter market, and the exchange market (Shanghai and Shenzhen). The interbank market is the most important platform for block trading of bonds among financial institutions, representing 90% of total traded volume. It is also the platform for open market operations conducted by the PBC. The major participants in the inter-bank bond market are the PBC and institutional investors, such as commercial banks, securities companies, insurance companies, securities investment funds, and credit cooperatives. Non-financial institutions may entrust commercial banks to trade on their behalf in the inter-bank bond market. Certain commercial bank participants have been allowed to set up counters at their branches, where individual investors are allowed to buy and sell bonds. This constitutes the so-called bank-counter market, which is still in its infancy. The major products in the inter-bank bond market are T-bonds, financial bonds, and a small amount of central bank bills. In order to increase the liquidity of these markets, several E-bonds can also be traded in the interbank market. Data provided by the authorities indicate that at end 2007, outstanding public debt (issued domestically and abroad) amounted to some Y 5,207 billion.

202. Major participants in the exchange market are securities companies, insurance companies, securities investment funds, trust and investment companies, credit cooperatives, other non-financial institutional investors, and individual investors. The PBC does not trade in this market, and commercial banks can have access only through the establishment of fund management companies.[199] The major products in the exchange market are T-bonds, corporate bonds, and a small amount of convertible bonds.

203. The Chinese bond market, particularly the corporate segment, remains small and underdeveloped. While it represented 27% of GDP in October 2006, most Chinese bonds are issued either by the Government or by government-owned policy banks. Only 6%, including commercial paper, are issued by non-financial enterprises (including SOEs). The corporate bond market provides only 1.4% of the total financial needs of corporations in China (about 85% is financed by banks and about 14% by equity).[200] The CSRC plans to allow more "qualified" companies to issue corporate bonds. The new Company Law eliminates the quota restriction on the bonds a company can issue.

204. Trading of futures started in 1993; currently, the futures market has three exchanges.[201] A total of 12 products are traded in the three exchanges.[202] By and large, trading in agricultural products tends to dominate; soybean, wheat, and copper futures are the most actively traded products. At present, only Chinese citizens and corporations organized and registered in China may trade in these

[199] CSRC (2005).

[200] Hale (2007).

[201] These are Shanghai Futures Exchange (SHFE), Zhengzhou Commodity Exchange (ZCE), and Dalian Commodity Exchange (DCE).

[202] Corn, soybean, soy meal, and soybean oil are traded in the DCE; copper, aluminium, natural rubber, and fuel oil are traded in the SHFE; and strong gluten wheat, hard white winter wheat, cotton, and white sugar are traded in the ZCE.

markets. Trading must be through authorized brokerage firms. Transactions in overseas futures have to be approved by the CSRC, and can only be used for hedging; such transactions can only aim at sterilization. To date, 31 enterprises have been allowed to conduct overseas futures transactions.

205. China Securities Depository and Clearing Corporation (CSDCC), established in March 2001, and under CSRC supervision, is the sole supplier of securities registration and transfer; securities depository services; and securities payment, clearing, and delivery. The CSDCC's two subsidiaries, in Shanghai and in Shenzhen, perform these functions for securities traded in those exchanges. For bonds not traded in these two exchanges, these services are ensured by the China Government Securities Depository Trust & Clearing Co. Ltd (CGSDTC). Commercial banks acts as sub-custodian in the interbank market.

206. At end 2006, there were 108 securities brokerage firms, 57 fund management companies, 183 futures brokerage firms, and 108 securities investment consultancy entities.[203] At mid 2007, seven sino-foreign joint-venture securities companies had been established, all but one after China's accession to the WTO; and there were 27 sino-foreign joint venture fund management companies.

Regulatory and legislative framework

207. Securities and futures markets continue to be regulated by the CSRC. Its principal functions have remained unchanged since China's previous Trade Policy Review. The main legislation is the Securities Law, most recently revised in October 2005, effective 1 January 2006.[204] Under the revised law and Measures on the Administration of Stock Exchanges, stock exchanges are self-regulatory legal entities, providing space and facilities for, as well as organizing and supervising, the trading of securities.[205]

208. Under the revised law, a securities company must take the form of a limited liability company or a joint-stock limited company, and must be approved by the CSRC to engage in securities business. A securities company may engage in any or all of the following activities: securities brokerage; securities investment consultancy; financial consultancy related to securities trading and investment; securities underwriting; securities business on its own account; securities asset management; and any other securities business. Under the amendments, securities companies are no longer barred from providing client financing and securities financing services, which must be approved by the CSRC and comply with the relevant regulations. Securities companies, including sino-foreign joint ventures, cannot engage in the development and distribution of derivatives products, which are reserved to banks; trust and investment companies; finance companies; financial leasing companies; legal persons of auto financing companies; and branches of foreign banks.[206]

[203] "China's Capital Markets: Review and Expectation", presentation by Mr. Shang Fulin, Chairman, CSRC, at the London School of Economics, on 17 November 2006. Viewed at: http//www.lse.ac.uk/collections/LSEPPublicLecturesAndEvents/pdf/20061117_Shang.pdf [19 February 2008].

[204] Other major legislation includes the Company Law, the Securities Investment Fund Law, 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 (Central Government online information. Viewed (in Chinese) at: http://www.gov.cn/ziliao/flfg/ 2005-10/28/content_85556.htm [5 December 2005]).

[205] Article 95 of the 1999 Securities Law stipulated that stock exchanges were non-profit legal entities. Under the revised Securities Law, it appears that stock exchanges are no longer non-profit driven.

[206] The Interim Measures for the Management of the Dealings of Derivative Products of Financial Institutions, enacted by the CBRC, effective 1 March 2004.

209. Requirements for establishing a securities company have remained largely unchanged.[207] CSRC approval is required, for which an applicant must, *inter alia*: be organized as a non-profit legal person; have minimum capital of Y 200 million; have a place and facilities as required by the services of securities registration, custody, and settlement; and have managers and practitioners with the securities-practice qualification. Securities registration and clearing institutions' functions include: the establishment of securities accounts and settlement accounts; the custody and transfer of securities; the registration of securities holders; the settlement and delivery of securities; the distribution of securities rights and interests; and the handling of any inquiry relating to these operations. The Law foresees that the registration and settlement of securities must be centralized.

210. The amended Securities Law provides for a definition of public issuance of securities, which is when securities are issued without a designated target, or for a designated group consisting of more than 200 persons. Advertisements, public enticement or other public methods can only be used for public issuance of securities.

211. Under the Securities Law, a qualified sponsor (a recommender) must be hired when securities are issued. Companies may only issue new shares if they meet specific requirements, for example having a sound, well-operating structural organization, in good financial condition, and no record of regulation violation or serious legal infringement in the prior three years. Companies wishing to issue corporate bonds must meet specific requirements, such as minimum net assets of Y 30 million (for joint-stock limited companies) or Y 60 million (for limited-liability companies).[208]

212. A securities investor protection fund was established in September 2005.[209] A state-owned company – China Securities Investors Protection Fund Corporation Ltd – runs the fund, aimed at protecting stock investors from cases of brokerages' bankruptcy or regulatory takeover for mismanagement and misappropriation. The fund does not cover losses caused by traders' poor trading decisions or normal market risks. The fund's capital comes mainly from: stock trading commission from the Shanghai and Shenzhen stock exchanges; the brokerages; interest generated from subscriptions to share and bond issues; liquidated assets from failed securities houses; donations; and other legal sources. The PBC is said to have contributed Y 10 billion to the fund. According to the Circular on Issues Related to the First Payment of Securities Investor Protection Fund by Securities Companies, securities companies must pay the China Securities Investor Protection Fund Corporation Ltd between 0.5% and 5% of their revenues. The ratios for individual companies are to be set by the CSRC, based on their risk management and other financial conditions.

213. The Rules on the Establishment of Securities Companies with Foreign Shareholding govern the establishment and operation of joint-venture securities companies.[210] Minimum capital requirements are as defined by the amended Securities Law, and can reach up to Y 500 million,

[207] See WTO (2006).

[208] Other requirements include: an accumulated bond balance no higher than 40% of the company's net assets; average distributable profits over the last three years sufficient to pay the one-year interest on corporate bonds; investment of raised funds in compliance with the industrial policies of the State; and the yield rate of the bonds no higher than the interest rate set by the Government.

[209] Article 134 of the amended Securities Law further states that "The state shall establish the securities investor protection fund. The securities investor protection fund shall be composed of the capital as paid by securities companies and any other capital as lawfully raised. The specific measures for financing, administration and use of the foregoing fund shall be formulated by the State Council."

[210] *China Daily* online information (Biz Guide). Viewed at: http://bizchina.chinadaily.com.cn/guide/law/law12.htm [5 December 2005]. The business scope of these joint ventures is currently limited to underwriting of 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).

depending on business scope (see above). Foreign equity in these joint-ventures has been limited to a minority shareholding of 33%. In principle, foreign suppliers can enter China's securities markets through the establishment of a new joint-venture with a Chinese partner or by taking a stake in an existing securities firm. However, in August 2005, CSRC imposed a moratorium on new securities licences, including for joint-ventures. According to the authorities, the moratorium is based on prudential considerations; in December 2007, CSRC resumed licensing of new securities firms.

214. The Measures for the Administration of Securities Investment Fund Management Companies regulate the establishment of domestically owned and sino-foreign joint venture asset management companies.[211] 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 a minimum paid-up capital in convertible currency equal to Y 300 million, even if it is not a major shareholder. Foreign shareholding is limited to 49%, as per China's GATS schedule of commitments.[212]

Recent reforms

215. Recent reforms have included: converting non-tradeable shares into tradeable ones; improving the quality of listed companies; applying administrative measures to regulate securities companies; facilitating the development of institutional investors; and promoting the creation of new products, with a view to tackling some of the most significant shortcomings of China's capital markets, such as the lack of sound corporate governance in both listed companies and brokerage firms; the high proportion of non-tradeable shares; the insufficient development of institution investors; the limited number of investment products; the lack of product innovation; and the insufficient development of the bond and futures markets.

216. According to official information, at end 2004, non-tradeable shares of listed companies accounted for 64% of total capital stock, and state-owned shares accounted for 74% of non-tradeable shares; the reform of non-tradable shares (the so-called split-share structure reform), initiated in 2005 has been completed.

217. After an experimental reform on the basis of the Circular on Issues concerning the Pilot Reform of the Split Share Structure Reform of Listed Companies, and the Circular on Issues concerning the Pilot Reform of the Split Share Structure Reform of the Second Batch of Listed Companies[213], on 4 September 2005, the CSRC issued the Administrative Measures on the Split Share Structure Reform of Listed Companies. The measures stipulate that: holders of non-tradeable share should compensate holders of tradeable share as a precondition of floating their shares on stock exchanges; non-tradeable shares will be locked-up for 12 months after the individual company's reform scheme takes effect and, holder's of non-tradeable share cannot sell more than 5% of the total shares of a listed company within another 12 months, and not more than 10% within 24 months; and

[211] Under the measures, minimum registered capital of Y 100 million is required to establish a fund management company. Principal shareholders, defined as those having no less than 25% of total registered capital in the investment fund management company, must have minimum registered capital of Y 300 million; other shareholders must have registered capital and net assets of no less than Y 100 million.

[212] Although not explicitly mentioned in the measures, Article 10 states that "proportion of capital contribution of or proportion of equity owned by the foreign party of a Sino-foreign joint venture fund management company may not exceed those in the commitment made by the state securities industry for opening to the outside world accumulatively (including those held directly and indirectly)".

[213] Issued on 29 April 2005 and 31 May 2005, respectively.

the companies should obtain the approval of reform schemes from at least two thirds of holders of tradeable share before implementation. According to the authorities, the reform transformed non-tradeable shares held by major shareholders in a listed company to tradeable shares; after a lock-up period defined in respective reform plans, major shareholders can decide whether to sell their shares in the secondary market or to continue to hold them. Investors' confidence resumed in 2006, as a result of the split-share structure reform. After a downturn of more than four years, the number of investors increased by 5.13 million in 2006, and the fund balance of client transaction settlements at the end of the year exceeded Y 1 trillion. By the end of 2006, the market value of tradeable shares reached Y 2.5 trillion.

(iv) Telecommunications

(a) Market structure

218. China's telecommunication sector continued to grow during the overview period, and prices have been further liberalized. Penetration rates of fixed line services increased from 15.1 lines per 100 persons in 2001 to 28.1 in 2006; the corresponding figures for mobile telephones were 11.5 and 35.3 (Table IV.8). There has also been a significant increase in the use of Internet services. Overall, telecommunication services prices fell by about 53% between 2001-06. Over the same period, the average charge rate per minute (ARPU/MOU) of China Mobile was reduced by 60%.[214] In 2005, the average price of fixed local telephony was Y 0.18-0.22 for the first three minutes, and Y 0.01-0.11 for an additional three minutes. According to the authorities, no data were available on average prices of leased circuits or Internet services.

Table IV.8
Telecommunications statistics, 2001-06

	2001	2002	2003	2004	2005	2006
Main telephone lines (million)	180.4	214.2	262.7	311.8	350.4	367.8
Main telephone lines per 100 inhabitants	15.1	17.5	21.1	24.1	27.0	28.1
Mobile service subscribers (million)	145.2	206.0	270.0	334.8	393.4	461.1
Mobile service subscribers per 100 inhabitants	11.5	16.1	21.0	25.9	30.3	35.3
Public telephones (million)	3.5	9.9	15.6	22.2	26.8	29.6
Public telephones per 1,000 inhabitants	2.7	7.7	12.2	17.1	20.6	22.6
Internet users (million)	33.7	59.1	79.5	94.0	111.0	137.0
Internet users per 100 inhabitants	2.6	4.6	6.2	7.2	8.5	10.5
Broadband subscribers (million)	..	..	..	..	..	50.85
Broadband subscribers per 100 inhabitants	..	..	..	..	..	3.85

.. Not available.

Source: ITU, *World Telecommunication Development Report* (various issues); ITU online information. Viewed at: www.itu.int/ITU-D/ict/statistics/; National Bureau of Statistics, *China Statistical Yearbook* (various issues); and data provided by the authorities.

219. At present, China has six nationwide basic telecommunications service providers (Table IV.9) and about 22,000 providers of value-added services. Of the six basic providers, China Telecom and China Netcom accounted for 62% and 33% of the market, respectively, for fixed-line services at end 2006; the mobile service providers are China Mobile and China Unicom (with about one third of the market in 2006). The State remains the majority owner of all the basic telecommunication service

[214] China Mobile (Hong Kong) Ltd (2006).

providers[215]; however, private participation and foreign investment has been allowed gradually. Four companies (China Mobile, China Netcom, China Telecom and China Unicom) have been listed in different stock exchanges. Foreign investment is around 25% in China Mobile, 25% in China Netcom, 22% in China Unicom, and 17% in China Telecom.

Table IV.9
Basic telecommunications service providers, 2005

Service	Providers
Fixed-line service	China Telecom, China Netcom, China Unicom, China TieTong
Mobile telephone service	China Mobile, China Unicom
Data	China Telecom, China Mobile, China Netcom, China Unicom, China Satellite, China TieTong (formerly China Railcom)
IP telephony	China Telecom, China Mobile, China Netcom, China Unicom, China Satellite, China TieTong
Satellite service	China Satellite

Source: Information provided by the authorities.

(b) Regulatory structure and policies

220. The telecoms sector is regulated by the Ministry of Information Industry (MII), which formulates and implements telecommunications policy subject to State Council approval of "important" strategic policy documents; for example, detailed collection measures for telecommunication resource fees, and price standards for important telecom services. The MII sets tariffs and tariff caps for basic services, and supervises their implementation.[216] Internet activities and services are regulated, supervised, and administered by several departments, *inter alia*, the ministries and agencies dealing with the press, publications, education, health, drug administration, and industry and commerce. Telecommunication services that convey radio and television programming are regulated by the State Administration of Radio, Film and Television (SARFT).

221. China does not yet have a telecommunications law, although the Government has indicated that the relevant bodies are working on drafting one. The Regulations on Telecommunication issued in September 2000 (State Council Directive 291) provide the overall legal framework for the sector. The regulations stipulate, *inter alia,* the separation of the Government from the business of providing telecommunications services; the requirement for a licence for basic telecommunications and value-added services; the process of negotiating interconnection between networks for new service providers; the management of service tariffs; and the standards for the quality of services. Other basic rules governing the sector include the Regulations for the Administration of Foreign Invested Telecom Enterprises and the Administrative Measures for Telecommunications Business Operating Permits, which entered into force in 2002.

222. Several new regulations relating to the sector have been issued since 2005. These include the "Criterion on Telecommunication Services (2005)", which lay out technical and quality-of-service standards, and the criteria that service suppliers must meet.[217] The MII also issued the Notice

[215] These assets are held by the State-owned Assets Supervision and Administration Commission (SASAC) on behalf of the country, despite the Regulations on Telecommunications (issued in 2000), which stipulate the separation of the Government from the business of providing telecommunication services.

[216] In addition, the relevant provincial telecommunications administration authorities are responsible for supervising and managing prices on local telecom services in cooperation with the local authorities in charge of pricing; they are also responsible for the approval and registration of telecom pricing in the region, supervising the market, and dealing with violators.

[217] MII Decree No. 36, March 2005. Viewed at: http://www.mii.gov.cn/art/2005/12/17/art_5241656.html (in Chinese) [18 December 2007].

Strengthening the Administration of Foreign Investment in Value-added Telecommunications Services in July 2006, which clarifies that the provision of unlicensed value-added services in China by foreign services suppliers is not allowed.[218] Internet services are regulated by different measures and regulations issued by MII, including the Measures for the Administration of E-mail Service on Internet[219], the Regulations on Electronic Certification Service (2005), and various rules related to the recording of IP addresses, issued in 2005.[220]

223. Since 2006, there have been no new entrants in the mobile services sector, including third generation (3G) services, for which licences have not been issued.

Interconnection

224. The process for interconnection is set out mainly in the Regulations on Telecommunications (State Council Directive No. 291 of 2000), the Regulations on the Interconnection between Public Telecommunication Networks (Decree No. 9 of MII), Measures on Supervision and Administration of Communications Quality between Public Telecommunications Networks (2005), and Measures on Settlement of Interconnection and Apportionment of Relay Expense between Public Telecommunications Networks (2003). The MII Measures on Settlement of Calling Charges between Telecommunications Networks regulate interconnection between telecommunication operators, and require fees to remain below certain levels. Service providers may negotiate any charges that are not set out in the regulations; MII or the relevant provincial telecommunications administration authorities may intervene when the parties are unable to agree. According to the authorities, the MII has settled several interconnection disputes where operators have been unable to reach agreement.

225. A dominant carrier must not refuse requests for interconnection from other telecommunications service operators, and interconnection agreements must be filed with the MII.[221] If the operators are unable to reach a mutual agreement within 60 days of one party expressing willingness to negotiate, either party can apply to the MII or the relevant provincial telecommunications authority for mediation. If agreement cannot be reached within 45 days of a request for mediation, the mediation authorities can solicit expert opinions and determine a compulsory interconnection scheme. Apparently, only China Telecom can be defined as a dominant carrier; while MII is considering how to define "dominant carrier", no definition has been established yet.

Foreign investment and licensing

226. Foreign investment in the sector is regulated by the Provisions on Administration of Foreign Invested Telecommunications Enterprises (Decree No. 333 of the State Council, issued December 2001 and effective on 1 January 2002). Under these provisions, foreign participation is allowed up to 49% for basic telecom services and up to 50% for value-added telecom services; there

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[218] According to the notice, foreigners need to establish a foreign-invested telecommunications enterprise in China prior to obtaining a telecommunications service operation licence.

[219] MII, Decree No. 38**,** March 2006.

[220] Regulations on Putting IP Address on Records, issued in February 2005 by MII, went into effect on 20 March 2005; Regulations on Putting Non-profit ICP on Records went into effect on 20 March 2005; Regulations on Internet Domain Names in China was amended and went into effect on 20 December 2004.

[221] Dominant is defined under the Regulations on the Interconnection between Public Telecommunication Networks as those who control necessary basic telecommunication equipment, and have more than a 50% market share in the local business and are able to "substantially affect the market accession of other service providers".

are also minimum capital requirements.[222] Under China's GATS commitments, there are foreign equity restrictions (currently 49% for fixed line and mobile services). In practice, other than for value-added services, where around 95% of enterprises have "domestic private" or foreign ownership, foreign investment in fixed-line and mobile services is below these limits. At end 2007, China had received 34 applications for setting up foreign-funded telecom enterprises to provide value-added services. Of these**,** 19 projects have been approved by the MII and granted the Examination Opinions on Foreign Investment in Telecommunications Services Provision, with which they can apply for an Approval Certificate for Foreign-funded Enterprises, a Telecom Operation Licence, and finish the registration process for foreign investment in telecommunication enterprises. In addition, 14 foreign-invested enterprises had formally applied for the Value-added Telecom Operation Licence; 11 were granted the licence; while the other three were waiting for approval.

227. For an FIE to obtain a telecom services licence, the Chinese major investor (rather than the foreign investor) must submit an application to the MII.[223] According to the authorities, foreign investors do not need to submit the application. The examination process must be completed within 180 days of receipt of an application for a licence for basic telecommunications, and within 90 days for value-added services. For applications for the provision of value-added telecommunications services within provinces, autonomous regions, or municipalities under the Central Government, the relevant examining authority (in the first instance) is the local telecommunications administration department. The local department must give its comments on the application to the MII within 60 days from receipt of the application. The MII must make a decision to approve or reject the application within 30 days of receipt. Approved projects receive an Examination Opinions on Foreign Investment in Telecommunications Services Provision. A written notification must also be provided to the applicant if the project is rejected. Where a foreign-invested telecommunication enterprise needs to be approved by State Council authorities, MII transmits the application to these authorities before granting the Examination Opinions.[224] In some unspecified cases, further examination may be required by the NDRC; a further 30-day period is provided for approval.[225]

Telecommunications tariffs

228. The Ministry of Information Industry (MII) sets tariff caps for fixed-line domestic and international long-distance telephony.[226] Telecom companies may determine their prices independently within these caps. As a result, tariffs of different telecommunications services vary

[222] Minimum registered capital for a foreign-invested telecom enterprise providing services across the country or across different provinces, autonomous regions, and municipalities directly under the Central Government (an area), is Y 2 billion for basic telecom services and Y 10 million for value-added services. For services provided within an area, the requirements are Y 200 million for basic services or Y 1 million for value-added services (WTO document S/C/N/236, 24 November 2003). The minimum registered capital requirement stipulated in the Provisions on Administration of Foreign Invested Telecommunications Enterprises is identical for foreign-invested and domestic telecom enterprises.

[223] The application must include the project proposal, a feasibility study report, and the relevant documents certifying compliance of the foreign and Chinese investors with the provisions and conditions in the Regulations on Telecommunications

[224] Whether a project needs such further approval is determined by the Government's policies regarding investment and financing arrangements.

[225] Article 15 of the Provisions on Administration of Foreign-Invested Telecommunications Enterprises (WTO document S/C/N/236, 24 November 2003).

[226] Tariff caps are Y 0.07/6 seconds for domestic long-distance telephony, and Y 0.8/6 seconds for international long-distance telephony (for outgoing calls to the Hong Kong and Macao SARs, and Chinese Taipei, the tariff cap is Y 0.2/6 seconds). The caps for inter-area local fixed telephony tariffs vary among different provinces, ranging from Y 0.3 to Y 0.5/minute. For intra-area local telephony, the charge for the initial 3 minutes is Y 0.18-0.22, then Y 0.09-0.11 per minute thereafter.

significantly in the different regions due to economic conditions and users' ability to pay. In addition, monthly rental charges apply.[227]

229. Telecom tariffs were adjusted in 1999 and 2001.[228] In 2002, new rules and revised tariffs established the current regulatory framework for telecom tariffs.[229] The Regulations on Telecommunication of People's Republic of China stipulate that, where there is "adequate competition" prices of telecommunication services must be determined by the market. The tariffs of value-added services, and services where there is "sufficient market competition" have gradually been liberalized since 2002. In 2005, a number of price caps were fixed for services including domestic long-distance, international long-distance (and long-distance calls to Chinese Taipei, the Hong Kong and Macao SARs), mobile domestic roaming, and trans-regional fixed-lines. In 2007, in mobile telephony, a transformation from two-way to one-way charging, within an operating area, was implemented nationally. In addition, the price caps for mobile domestic roaming charges were reviewed to assess whether the price caps could be lowered. A public hearing on lowering the cap for domestic roaming charges of mobile phones was held at the end of January 2008.

230. There are three types of tariffs: government set, government guided, and market adjusted. The Government maintains price controls on basic telecommunication services, fixed lines, cellular services, local call charges, and monthly rental charges. The three Government types of tariff are applied to basic telecommunication services, while government guided or market adjusted prices are applied to value-added services.

231. As from October 2005, fixed-line domestic, international long-distance, and domestic roaming charges for mobile telephony have been subject only to government set ceiling prices. For fixed-line domestic long-distance and international calls, the MII sets an upper limit, below which companies may fix their own rates, subject to approval. Operators' actual rates must be notified to the MII or the local telecommunication authorities. Monthly charges, local fixed-line charges, and other basic telecom service fees are still subject to government approval. Due to several factors, including competition and upgrading of technology, telecom service operators in China may also offer preferential prices to customers, including credit accumulation and discounts. The pricing structure for mobile telephony services is similar. MII maintains upper limits for roaming calls: Y 0.8 per minute for pre-paid services and Y 0.6 for others. For pre-paid services there is no monthly fee and usage is Y 0.6 per minute within the operating area. For contractual users, monthly rental is Y 50 and a Y 0.4 charge for each minute within the operating area. Actual prices paid by users are below the tariff ceilings. According to the annual report of China Mobile (Hong Kong) Ltd., its average revenue per minute fell from Y 0.31 in 2004 to Y 0.24 in 2006. Moreover, China Unicom's charges are about 10% below China Mobile's.

Universal service

232. Under the Regulations on Telecommunications (2000), operators must provide universal service, however no universal service fund has, as yet, been established. When China Telecom was a

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[227] The rental charge is Y 20-25 in the provincial capital city, Y 12-18 in other cities and towns, Y 10-15 in rural areas, and Y 25-35 for commercial users.

[228] Adjustments in January 2001 rebalanced telecom tariffs by increasing local fixed-line tariffs and reducing tariffs on seven other services, including long-distance, leased-line fees, and Internet access fees. Information provided by the authorities suggests that tariffs for broadband access fell by as much as 95%. Further changes in July 2001 saw the removal of installation fees and mobile phone subscription fees.

[229] These included: Measures on the Approval and Filing Procedure of Telecommunication Tariff, the Catalogue of Telecommunications Tariffs Subject to Market-adjusted Prices, and the Catalogue of Telecommunications Tariffs Administered by Provincial Communications Administration Authorities.

monopoly it provided universal services by means of cross-subsidization; however, this is no longer possible since competition and tariff liberalization have been introduced. Currently, the MII, together with other ministries, is establishing a telecommunications universal service fund and working out the cost structure for compensating service providers for the provision of universal service. Meanwhile, MII has issued a detailed plan related to universal service each year since 2004. In January 2004, the Government launched the Village Access Project, aimed at providing at least two telephones per village for 95% of China's administrative villages by the end of 2005, and for more than 99.5% of China's administrative villages by the end of 2010. The programme also calls for expanding access to Internet and promoting the spread of information technology in rural areas. Funds for the Village Access Project are provided by the six telecom service providers, the Central Government, and some local government resources.

(v) Transport services

(a) Air transport services

Market overview

233. China's civil aviation industry has been growing rapidly since its previous Review. In 2006, the industry transported 30.6 billion tonnes per kilometre, 160 million passengers, and 3.49 million tonnes of cargo and mail, which represented increases of 17%, 15.5%, and 13.9%, respectively, over the previous year.[230] From 2000 to 2006, annual average growth rate of air passenger transport was 15.6%, and 12.7% for international passengers.[231] The annual average growth rate for cargo and mail traffic was 12.6% between 2001 and 2006.[232]

234. Domestic routes and passenger traffic dominate the business[233]: 66.3% of the total air traffic in 2006 was on domestic air routes and 33.7% was on international routes. Passenger traffic accounted for 69.2% of the total; cargo and mail traffic accounted for the rest.[234]

235. Seat occupancy rate has been increasing, with an average of 73.9% for regular flights in the first half of 2007, up 1.6 percentage points year on year, and an all-cargo load factor of 65%, down 0.2 percentage points. According to the authorities, the drop of load was due to the decline in the load rate on international routes brought about by competition amongst the four giants in the global air cargo transport market (FedEx, UPS, DHL, and TNT).

236. Figures on the share of domestic and international air traffic of foreign-owned carriers were not available. Registered airplanes in the civil aviation sector in China totalled 1,054 at the end of June 2007, an increase of 56 over the previous six months.

[230] CAAC (2007).

[231] WTO document S/C/M/89, 19 November 2007.

[232] WTO document S/C/M/89, 19 November 2007. The industry continued to grow in 2007: in the first half, total transport turnover reached 16.7 billion tonnes/km (10.9 for domestic routes and 5.8 for international routes); 86.7 million passengers were transported (78.2 on domestic routes and 7.9 on international air routes), and 1.8 million tonnes of mail freight was carried (1.3 million for domestic routes and 508,000 tonnes for international air routes). Hong Kong Trade Development Council online information, "Civil Aviation Industry Growth Robust", 10 September 2007. Viewed at: http://industries.tdctrade.com [19 February 2008].

[233] In the first half of 2007, the industry's main operating turnover reached Y 121.8 billion, rising by 18.3% year on year; the industry's costs totalled Y 118.3 billion, up 14.9%; while total profits reached Y 4.6 billion, an increase of Y 4.9 billion after deficits.

[234] CAAC (2007).

237. The sector is highly concentrated. The three state-owned airlines, Air China, China Eastern, and China Southern, were created following the consolidation of nine state-controlled airlines in 2002. Together, they represent 80% of the market.

238. Since 2004, the Government has been allowing private investment in domestic airlines, in a move to progressively open the market. Since then, 20 new airlines have established operations in China, and foreign investment was allowed in existing companies[235]; foreigners have invested in the three main airlines.[236] As of December 2007, there were 42 independent civil airlines in China; amongst the many start-ups licensed in 2005 three intended to operate as low-cost-companies.[237]

239. China's major airports, including Beijing Capital Airport and Shanghai-Pudong International Airport, are currently operating at or near maximum capacity for takeoffs and landings. The available slots are not sufficient to meet the rapid rise in demand.[238] Currently, Beijing can handle at most 1,000 flights per day safely. The Capital Airport is being expanded; this is expected to improve the situation, particularly in light of the 2008 Olympic Games, during which Beijing can expect a 20% increase in air traffic (and as much as 70% in peak periods), according to data from the International Civil Aviation Organization (ICAO). In August 2007, the Civil Aviation Administration of China (CAAC) issued Provisional Rules on Slot Management. Slot Coordination Committees, composed of officials from CAAC, air traffic control bureaux, airlines, and airports, were set up at busy airports.

Regulatory framework

240. The CAAC, the main agency responsible for the governance of the civil air transport sector, has seven regional administrations and 33 district and municipal security supervisory offices. The sector is regulated by the Civil Aviation Law, administrative regulations issued by the State Council, and related rules formulated by the CAAC.

241. Requirements for the establishment of public air transport enterprises have remained unchanged since the previous Review. They include: use of aircraft that meet national safety and security requirements; legally licensed aviation staff; registered capital no less than the minimum specified by the State Council. In addition, these enterprises may not have less than three purchased or rented civil aircraft that meet the relevant safety requirements; their flight, aircraft maintenance, and other specialized technical staff must meet the relevant requirements of civil aviation rules; the legal representative of the enterprise must be a Chinese citizen; the registered capital must be no less than the minimum specified by the State Council; they must have access to bases, airports, and other fixed operational places and equipment necessary for business operation.[239]

242. According to the authorities, no airlines have exclusive rights over domestic services; rather, they apply to the CAAC for the right to provide domestic services in accordance with common principles and conditions. According to the Supervisory Regulations of Domestic Routes and Flights, the CAAC classifies routes between the 148 domestic airports into two types: those requiring

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[235] Among the 20 new airlines, 11 are wholly private or private-controlled.

[236] Air China is 40.40% state owned; 17.34% is owned by Cathay Pacific, and 34.21% by other foreign investors. China Southern is 50.3% state owned and 26.84% foreign owned. China Eastern Airlines is 61.64% state owned and 32.20% foreign owned.

[237] These are Okay Airways (based in Tianjin), Spring Airlines (based in Shanghai) and United Eagle Airlines (based in Chengdu) (WTO document S/C/W/270/Add.2, 28 September 2007).

[238] WTO document S/C/M/89, 19 November 2007.

[239] Article 7 of the Approval Regulations of the Operations of Public Air Transport Enterprises (Order 138 of the CAAC).

approval, which concern the ten busiest routes in terms of passengers carried, and those requiring registration, which concern all other routes.

Bilateral air service agreements and international linkages

243. China's bilateral aviation policy is closely linked to its tourism policy, aimed at progressively opening up new destinations for Chinese travellers. At end 2007, China had signed bilateral air services agreements with 95 countries; it is negotiating such agreements with 15 countries. Currently, 95 foreign airlines operate 1,611 weekly passenger and cargo flights to 30 mainland cities.[240]

Foreign investment in the sector

244. Foreign investment in the civil aviation industry has been governed since 1 August 2002 by Order No. 110, jointly issued by the CAAC, the MOFCOM (then MOFTEC), and the NDRC.

245. Foreign investors may invest in civil airports, public air transport enterprises, general aviation enterprises[241], and "projects related to air transport", which include air fuel, airplane maintenance, freight transport and storage facilities, ground services, air food, and parking lots. Foreign investors are not allowed to invest in or to manage air traffic control systems.

246. Foreigners may invest by establishing an equity joint venture or contractual joint venture; or through the purchase of shares of civil aviation enterprises, including shares issued overseas and foreign shares issued in China by the aviation enterprises.[242] 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%.[243] CAAC Decree 110 stipulates that all public aviation enterprises with foreign investment must be controlled by Chinese shareholders, and a single foreign investor (including its affiliate companies) can hold no more than 25% of the shares. Total foreign shares in an airline must not exceed 49%.

247. Order 110 has been complemented by Order 139, which entered into force on 24 February 2005. This order puts into effect preferences granted to Hong Kong, China and Macao, China which allow them to provide management services of medium and small airports in the form of a contractual joint venture, equity joint venture or solely-funded enterprise.

[240] For details on these bilateral agreements see WTO (2006).

[241] General aviation enterprise include those engaging in agriculture, forestry and fishery operations, as well as business flight, air sight-seeing or services to the industry.

[242] Foreign investors must be qualified as a Chinese legal person to invest, in the form of contractual joint venture, in public air transport and general aviation enterprises engaging in business flights and air sight-seeing.

[243] 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."

(b) Maritime transport services

Market structure

248. Some 90% of China's exports and imports are transported by sea. By the end of 2006, the ocean fleet capacity was 45.5 million deadweight tonnage (DWT), of which 23.2 million belonged to the 1,920 ocean-going vessels flying the national flag.[244]

249. China’s international maritime transport industry is both horizontally and vertically integrated. At end 2006，more than 280 international maritime transport companies had registered in China, among which over 20 were joint ventures. More than 170 international liners have been engaging in international shipping operations, 110 of which are offshore companies coming from 30 countries and regions (nearly 65% of the total).

250. About 30 foreign shipping companies have set up wholly foreign-owned companies in China. Over 1700 domestic and foreign companies have been qualified as non-vessel-operating common carriers (NVOCC), of which 790 are foreign-invested companies and offshore companies. Over 1,000 offshore navigation companies have set up resident representative offices in China.[245]

251. Since 2005, 40 foreign liners have been eligible to engage in international liner operations. Nearly 100 offshore companies have been qualified as NVOCCs, seven "offshore navigation companies" have set up new wholly foreign-owned companies related to shipping and container transportation services, and added 54 branches. More than 300 "offshore port navigation companies" have set up representative offices in China.

Regulatory system

252. The regulatory system for maritime transport has remained largely unchanged since the previous Review of China (Table AIV.4). The Ministry of Communications (MOC) is in charge of formulating shipping and port policies with a view to: establishing a competitive maritime transport market; building up an internationally competitive commercial fleet; and forming a multi-functional port system, taking into consideration economic development and security concerns.

253. According to the authorities, there are no financial subsidies or cargo preferences for domestic shipping companies; domestic and foreign companies enjoy equal market access with regard to maritime transport services.

254. The Maritime Code and the Regulations on International Maritime Transportation provide the general regulatory framework.[246] Examination and verification by the MOC is required for an international shipping operator to engage in international liner services. Bulk shipping is also covered by the Regulations.

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[244] According to the authorities, there are no statistics for the state-owned share of the deadweight tonnage.

[245] In accordance with China's laws and regulations, overseas enterprises or other economic organizations may set up non-profit representative offices in China. MOC approval is necessary, and the period of operation cannot exceed three years.

[246] The Regulations were issued by the State Council, effective 1 January 2002. For details of the regulatory framework, see WTO (2006).

255. Under the Maritime Code, shipping and towing between domestic ports cabotage must be undertaken by ships flying the national flag, unless otherwise stipulated by laws or administrative rules and regulations.[247]

256. Around 50% of total international shipping tonnage is accounted for by Chinese-owned vessels registered overseas and flying foreign flags. In order to expand the Chinese-flagged ocean shipping fleet, and to ensure employment for Chinese nationals, the Ministry of Communications put in place an Ad-hoc Tax-free Registration Policy for the Chinese-owned Vessels Engaged in International Voyage, which entered into force on 1 July 2007. Under this new policy, Chinese-owned vessels registered overseas before the end of 2005 will be exempted from customs duty and import VAT, and allowed to register back in China in accordance with the current ship registration regulations, if they comply with certain criteria on the age of the vessel and technical requirements and, if they submit import declarations within two years from 1 July 2007.[248]

257. The Maritime Code includes provisions on multi-modal contracts and operators and their responsibilities. The Government encourages enterprises to expand multi-modal transport, including by: investing in deep-water container-dock construction and improving the road, railway, coastal, and freshwater transport system[249]; establishing an internationally competitive container fleet; developing container transport information technology, including electronic data interchange (EDI) and other electronic business systems; and improving the legal structure for multi-modal transport. In addition, FIEs are encouraged to engage in international container multi-modal transport in the form of NVOCCs.

Foreign direct investment

258. There has been no significant change to the regulatory framework on foreign direct investment in the maritime sector, although a new Catalogue for the Guidance of Foreign Investment Industries was issued in November 2007, to enter into force in December 2007. In addition to Article 32 of the Maritime Transportation Regulations, which provides a general regulatory framework for foreign investment, detailed regulations are provided in the Administrative Rules on Foreign Investment in the International Maritime Transportation Industry, effective 1 June 2004.[250] Under these rules, the MOC, and MOFCOM are responsible for granting approval for the establishment of FIEs operating in international maritime transport. Wholly foreign-owned enterprises are allowed for maritime cargo storage and warehousing services; sino-foreign equity joint-ventures or sino-foreign contractual joint ventures with the majority share held by the foreign partners are allowed for international ship management, international maritime container freight stations and container yard services. Sino-foreign equity joint ventures, sino-foreign contractual joint ventures, or wholly foreign-owned enterprises are allowed to offer routine services, such as

[247] The Regulation on Vessel Registration, effective 1 January 1995, stipulates that, to fly the national flag, a vessel must be registered in China and obtain Chinese nationality. Its crews are usually Chinese citizens; when it is necessary to recruit foreign crew, approval from the MOC is required. In addition, if the ship is owned by a Chinese citizen, the owner must have their residence or main business office in China; if the ship is owned by a legal person, their main business office must also be in China; for a joint venture with foreign investment, no less than 50% of the company's registered capital must be owned by the Chinese partner. According to the authorities, there are no exclusivity rights or subsidies for ships flying the national flag.

[248] Ad-hoc Tax-free Registration Policy for the Chinese-owned Vessels Engaged in International Voyage, Ministry of Communications, 26 June 2007. China Development Gateway. Viewed at: http://www.chinagate.com.cn/reports/2007-06/29/content-8458895.htm [18 February 2008].

[249] Information provided by the authorities stated that, the average handling capacity of container ports is increasing by 25-30% annually, and the proportion of "door-to-door" transportation is also increasing rapidly.

[250] Ministry of Communications online information. Viewed at: http://www.moc.gov.cn/zhengwu/zhengwu/t20040428_10154.htm [1 July 2005].

canvassing of cargoes, issuance of bills of landing, settlement of freight, and signing of service contracts for the investor's owned or operated vessels.

Auxiliary services

259. Tally services in China used to be monopolized by the China Ocean Shipping Tally Company.[251] According to the authorities, the establishment of the China United Tally Company (CUTC) on 18 March 2003 constituted a step to introduce competition in tally services.

260. Under the Regulations on Administration of Pilotage, effective 1 January 2002, pilotage is compulsory mainly for foreign flag vessels, and for some Chinese vessels under certain laws or regulations. According to the authorities, the practice is not discriminatory, as it is required to safeguard national security, safety, and the environment.[252] All pilotage staff must be Chinese nationals.[253] The authorities note that reform in pilotage services is envisaged, and will entail, *inter alia*, separating pilotage entities from port enterprises, and, based on the principle of "one port, one pilotage entity", establishing non-profit pilotage entities administered by local port administration authorities.[254]

Port services

261. As ports are the conduit for around 90% of China's rapidly growing trade, their efficiency is essential. There were 1,430 ports in China in 2003, of which 132 could deal with international trade. In 2006, merchandise throughput in Chinese ports was 970 million tonnes, up 18% over 2005; container throughput at key ports amounted to 47.4 million TEUs, up 30.9% over 2002. Nine coastal ports have a throughput exceeding 100 million tonnes; thus, half of the world's ports with a throughput over 100 million tonnes are located in China. China's ten biggest coastal ports handled 71.7% of total cargo handled by the country's coastal ports.

262. At end 2006, there were 35,453 productive berths in China's ports, including 1,203 deep-water berths for 10,000-tonne vessels. Cargo and container movements increased by 17% and 20%, respectively.[255] Goods handling capacity at China's ports was 4 billion tonnes in 2004. On average, ships stop at major ports in China for 1.1 days (the average turnover time).

263. China's ports used to be regulated at three different levels of government: under the Central Government, regulated by the MOC; under the shared control of the MOC and local governments; and those regulated by the local government. Reform of this system started in 2001 when the Central Government delegated all responsibility to local governments. Currently, the MOC is responsible for overall national port administration, including formulation of policy, while local governments designate a department (port administration authority) to implement port-related regulations.

264. The main legislation is the Port Law, which entered into force on 1 January 2004. Under this law, domestic and foreign investment in port construction and operation is encouraged. The

[251] Tally companies are public notary companies that operate between the shipping companies and the terminal operators when cargo is delivered. They issue legally binding documents to verify the quantity and quality of the import and export cargo delivered.

[252] UNESCAP (2002).

[253] Ministry of Communications online information. Viewed at: http://www.moc.gov.cn/zhengwu/zhengwu/2003_01_20_5551.htm [4 July 2005].

[254] According to the authorities, for reasons of national security and port safety, it is not appropriate to privatize or corporatize pilotage entities.

[255] *China Daily*, 22 June 2007, "Foreign Investment Boosts Port Industry".

Regulations on Administration of Port Operation, effective 1 June 2004, stipulate that, to engage in port operations, enterprises must obtain an operation licence from the port administration authorities.[256] Port operators are required to ensure port safety; operators in violation of relevant requirements are subject to fines of up to Y 200,000 or revocation of their operating licence.

265. In order to improve safety at ports, China has applied the International Convention for the Safety of Life at Sea of 1974 (SOLAS) since 2002, and the International Ship and Port Facility Security Code (ISPS) became effective on 1 July 2004. To implement these conventions, around 1,700 Chinese ships had to obtain a Certificate of International Ship Security from the MOC before 1 July 2004, and about 10,000 security personnel had to undergo security training. The Maritime Safety Administration, under the MOC, is the competent authority for safety issues; its Guide for Ship's Implementation of ISPS assists small and medium-size companies to implement these international conventions. The MOC also formulated the Regulations on Port Facility Security on 14 November 2003, as the basis for special working groups to evaluate port facilities across the country. The evaluation of large ports was completed by 31 March 2004 and of other ports by 30 April 2004; 685 port facilities in China had obtained a Port Facilities' Safety Certificate by 2006.

266. Foreign investment in port construction and management is listed as "encouraged" in the Catalogue for the Guidance of Foreign Investment Industries. The Port Law applies to foreign investment in port operations; foreign investors may establish wholly owned port operators or set up joint ventures.[257] In 2005, there were over 200 FIEs involved in port services in China; total investment was over Y 20 billion, of which more than Y 11 billion was foreign. A port's harbours may be owned and operated by state-owned harbour companies, FIEs, or private enterprises. Under the Port Law, private enterprises and FIEs that satisfy certain requirements have the same access to all port services as state-owned companies. Port administrative functions are under the port administration authorities; enterprises are responsible for daily operation and maintenance.

267. Port charges are decided by the MOC and the NDRC, taking into consideration cost and the level of competition in the market; the charges are applied uniformly across the country. Port operators may set some fees, such as for warehousing and container yard services.

268. A port may have more than one stevedoring company, but each stevedoring company is confined to one port. When establishing stevedoring companies, approval is required (from provincial governments for domestic companies and from the MOC for FIEs).

Bilateral and international agreements

269. According to the authorities, China does not have any cargo reservation or preference measures; all commercial cargo is accessed freely, unless covered by cargo-sharing arrangements. China has bilateral cargo-sharing arrangements with Algeria, Bangladesh, Brazil, and Zaire.[258]

270. China is a Class-A member of the International Maritime Organization (IMO). It participates in the drafting and amending of international rules, such as the ISPS Code. At end 2006, China had

[256] Other regulations in this regard include Rules on Port Charges, Rules on Goods Handling in Port, and Regulations on Management of Dangerous Goods in Port.

[257] Before the enactment of the Port Law, foreign operators were restricted to less than 50% equity in port construction, and port investment needed Central Government approval, which could be time-consuming.

[258] The authorities state that cargo-sharing arrangements with these countries have not been implemented.

concluded bilateral maritime transport agreements with 58 countries.[259] A consultation mechanism has also been set up between China and several WTO Members, including the United States, the European Communities, Japan, and the Republic of Korea.

271. Since China's previous Review, there has been no change in the Agreement on Maritime Transport signed by China and the United States on 8 December 2003,[260] or arrangements under the Closer Economic Partnership Arrangements (CEPA) with the Special Administrative Regions of Hong Kong and Macao.[261]

(vi) Distribution services

(a) Market overview

272. China's distribution sector has developed rapidly and been subject to important liberalization over recent years. Total retail sales increased from about Y 940 billion in the early 1990s to Y 6.72 trillion in 2005.[262] Wholesale and retail trade accounted for 7.2% of GDP in 2006 (down from 7.8% in 2004), and employed 51.3 million people.[263] Foreign investment in the subsector is significant. According to official data, net FDI in wholesale and retail trade amounted to US$1.11 billion in 2006, representing 6.3% of total net FDI received that year; accumulated net FDI amounted to US$128.6 billion, 17.3% of the total.[264] The development of the subsector has been fuelled by rising urban income and rapid urbanization, concurrently with the entry and expansion of modern distributors in major cities. Real growth of non-grocery retail sales between 2000 and 2005 is estimated at 75%, by far the highest rate among the world's developed and emerging economies.[265]

273. The retail subsector has undergone a radical transformation, from state-owned operations and traditional small shops to modern distribution formats such as hypermarkets. Traditional department stores (typically selling non-food merchandise) have been popular in China, but are facing pressure as a result of the development of hypermarkets and other modern retailers. Hence, to stay competitive, many have made efforts to incorporate new management methods and better use of technology.[266] The sector is still changing as both domestic and international chains are expanding aggressively, although foreign presence remains limited to big cities. Given the subsector's recent further opening to FDI, many global distribution companies are seeking to enter China, attracted by the market size

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[259] According to the authorities, these agreements include all the coastal countries that have diplomatic relations with China; some of the agreements are confidential.

[260] U.S. shipping companies are now allowed to establish joint-venture shipping agencies and wholly owned shipping companies, container transport service companies and logistic service companies in China, while Chinese shipping companies are no longer labelled "controlled carriers" by the United States.

[261] Under the CEPA, service suppliers in these regions are allowed to: set up wholly owned companies in China to conduct international ship management, seaborne cargo storage and warehousing, container yard, container freight stations, and NVOCC business; offer services such as cargo canvassing, issuing bills of lading, settling freight, and signing service contracts for the ships they own or operate; and utilize trunk-line container carriers to transport empty containers they own or rent between the mainland ports, after undergoing Customs procedures. The minimum registered capital requirements for these suppliers to engage in warehousing services and freight forwarding services are the same as those required for domestic enterprises.

[262] Economist Intelligence Unit (2006b), *China Hand*, Chapter 11: Distribution, November, p. 18; and PriceWaterhouseCoopers (2007a).

[263] National Bureau of Statistics of China, 2007.

[264] National Bureau of Statistics of China, 2007.

[265] Euromonitor (2007), p. 57.

[266] Foreign operators in this sector include Parkson (Malaysia), Pacific Department Stores (Chinese Taipei) and Robinson (Philippines), (PriceWaterhouseCoopers (2007a), p. 24; Economist Intelligence Unit (2006b), p. 21).

and future growth prospects. Supermarkets are dominated by domestic players; while hypermarkets are dominated by foreign suppliers.

274. The subsector is extremely fragmented. The country is dominated by small independent shops, often family-owned. In 2004, there were 39.2 million *getihu* (individual registrations), of which 41% were engaged in retailing.[267] Moreover, in 2005, over 80,000 wholesale markets operated throughout China, with some 15 million stalls and employing between 10 and 15 million people.[268] In 2005, China's top 30 chain enterprises accounted for 7.3% of total retail sales of consumer goods, essentially unchanged from 2004.[269]

275. According to the China Chain Store and Franchise Association, sales revenues of China's top 100 chain stores totaled Y 855.2 billion in 2006, up 25% from the previous year and exceeding the 13.7% rise in China's total consumer goods sales. There were 69,100 chain store outlets in the country, employing 2.04 million people, up 31% from the previous year. Total sales of the top 100 stores recorded average annual growth of over 30% in recent years and their share in total retail sales of consumer goods increased to 11.2% in 2006 from 6% in 2002.

276. According to the MOFCOM, 1,027 foreign-invested enterprises (mainly wholesalers) were granted approval to operate in the subsector in 2005, three times the number approved during 1992-04.[270] It would appear that sales by foreign-invested department stores account for less than 5% of total retail sales of consumer goods (and about 10% in major cities).[271]

277. Franchising is also growing rapidly, albeit from a low base. The China Chain Store and Franchise Association estimates that at end 2005 there were 2,300 franchise businesses operating 168,000 units, up from about 500 franchises in 2000. The sale of franchise products has increased at 40% or more annually in recent years, faster than the annual increase in overall sales of consumer goods. Franchises are active in a wide range of activities, from fast-food restaurants to the provision of education services, although the sale of franchise products accounts for only 3% of the total retail sales in consumer goods. Foreign presence in this segment is important since 15 of the top 20 international franchisers are already present.[272] The entry of foreign franchises helps to promote new business concepts and marketing methods stimulating the overall development of the subsector. Some local franchises are also growing rapidly.[273]

278. Other distribution formats have had a more limited impact. Convenience store chains have only been successful in major cities. For instance a number of local as well as foreign chains (Lawson, Dairy Farm, 7-Eleven) are expanding quickly in Beijing and Shanghai. Japan's Lawson has increased its stores in Shanghai to more than 280, while 7-Eleven Japan has opened 30 stores in Beijing through a joint-venture. Direct selling is still developing, as regulations were introduced in 2005. Foreign companies with a substantial presence include Amway, Avon, and Mary Kay. After

[267] Economist Intelligence Unit, p. 19.

[268] MOFCOM (2007a).

[269] MOFCOM (2007a), p. 107.

[270] Top retailers include local players such as Beijing Hualian, Lianhua, China Resource Enterprise, Hualian Supermarket and Shanghai Nonggongshang. Foreign distributors include Carrefour, Auchan, Wal-Mart, Tesco, Metro, AS Watson and CP Seven Eleven (MOFCOM (2007a), p. 108).

[271] MOFCOM (2007a), p. 108.

[272] According to the International Franchise Association, about 50 U.S. franchises are doing business in China (China Chain Store & Franchise Association, "Franchises in China could soar", 27 February 2007. Viewed at: http://www.ccfa.org.cn/English/news_show_2005.jsp?id=36192 [9 July 2007]).

[273] For example, the sports company Li Ning has more than 2,500 franchisees (China Law & Practice (2007a)).

direct selling had been banned in 1998, a number of direct selling companies opened retail networks so as to build brand awareness and business. Amway's sales in China totaled Y 10 billion in 2003, making China its largest market worldwide.[274]

(b) Regulatory framework

279. Although the liberalization process first started in 1992 by allowing the establishment of some joint-ventures, major reforms in the sector are the result of the China's GATS commitments. These provided for a step-by-step increase in access to foreign suppliers, in particular under mode 3 (commercial presence). For a number of products, foreign participation was typically first allowed through joint venture, then foreign majority ownership was allowed, and later, wholly foreign-owned enterprises were allowed. The range of products that foreign enterprises can sell has also increased over time, as has the geographical scope of their operations (for retailing). China still maintains certain restrictions, for example, suppliers with more than 30 outlets may not sell certain products.

Wholesaling and commission agents services

280. The Administrative Measures on Foreign Investment in Commercial Fields (MOFCOM, 2004) stipulate the removal of limitations for foreign suppliers to practice in the sector. These measures - which also applied to retailing and franchising - include provisions on licensing requirements and approval procedures. Wholesale companies may sell products on a wholesale basis, act as a commissioned agent, import and export products, and provide related services. Examination and approval of applications is by MOFCOM's local departments.[275] Upon approval, a company may combine retail and wholesale activities. For such companies, retailing of some products is subject to specific regulations set out in different administrative measures.[276]

281. China has granted 17 licences for the wholesale distribution of oil products, mostly to domestic private companies.[277] In June 2007, two foreign joint-ventures, with Sinopec Fujian Refining & Petrochemical Co. Ltd (FRPC), and Sinopec SenMei (Fujian) Petroleum Co. Ltd (SSPC), both of which are partly owned by ExxonMobil and Saudi Aramco, were approved to enter the domestic wholesale oil product market. These were the first licences granted to companies with foreign investment.[278] The regulation that authorizes PetroChina and Sinopec as the only final oil

[274] PriceWaterhouseCoopers (2007a); and KPMG (2006).

[275] *China Daily*, "Investors Enjoy Easier Access to Distribution Firms", 27 February 2006.

[276] The distribution of specific products - also for retailing - is subject not only to the Administrative Measures on Foreign Investment in Commercial Fields, but also to the Measures for Administration of the Market of Processed Oils, the Measures for Administration of the Market of Crude Oil, Administrative Measures on Refined Oil Market, the Measures for the Implementation of the Administration of Automobile Brand Sales, the Measures for the Administration of Chinese-Foreign Cooperative Audio-video Product Distribution Enterprises, and the Measures for the Administration of Foreign-Funded Distribution Enterprises of Books, Newspapers, and Journals.

[277] Market Avenue, "China Issues Crude Oil And Oil Products Trading Licences", 6 August 2007.

[278] On 28 July 2007, the Ministry of Commerce (MOFCOM) granted the first licences to distribute crude oil to PetroChina, Sinopec, CNOOC Refining & Petrochemical Co., Sinochem International Corporation and China Arts Huahai Import & Export Corporation. PetroChina and Sinopec also obtained licences for crude oil storage. PetroChina, Sinopec, CNOOC, and Sinochem are China's largest state-owned oil companies. MOFCOM also granted six oil product wholesale licences to China Arts Huahai Import & Export Corporation, Liaoning Fangyuan National Reference Petrol Co. Ltd, Dongming China Petroleum Fuel & Petrochemicals, Xinjiang Zetian Petroleum & Chemicals Co. Ltd, Maoming Gang'an Petroleum & Chemicals Co. Ltd and Ningxia Baoneng Industry Co. Ltd, as well as five oil product storage licences to Maoming Gang'an Petroleum & Chemicals Co. Ltd, Jiedong Tonghui Energy & Chemical Co. Ltd, Xinjiang Zhong You Chemical Group Co.

product distributors still stands, thus other companies must still sell and purchase oil products to and from these two companies.

Retailing services

282. The authorities aim to facilitate foreign participation in wholesale trade and commission agents' services as described in the Administrative Measures on Foreign Investment in Commercial Fields, issued by MOFCOM in April 2004.

283. Other regulations affecting retailers allow authorities not to grant licences if urban commercial network plans have not been finalized. New rules on large stores (outlets of more than 10,000 sqm) are being reviewed by the State Council. These rules will require public hearings on the impact on communities of such stores; a panel consisting of regulators, competing retailers, and representatives of local residents will be in charge of the assessment.[279] According to the authorities, most large and medium-size cities (e.g. Dalian and Xiamen) have made plans for the establishment of large stores, and have organized public hearings to discuss impact of these rules on competition (e.g. to avoid concentration of the same type of stores), and on the environment.

284. Incentives are granted by MOFCOM for the establishment of certain retail stores (e.g. small convenience stores) in rural areas. The incentives are usually in the form of government grants, and are higher if stores are established in western China.

Franchising

285. The Government recently adopted a new legal regime for franchising, including the Regulations for the Administration of Commercial Franchising, the Measures for the Administration of Filings of Commercial Franchising, and the Measures for the Administration of Information Disclosure of Commercial Franchises, issued by MOFCOM effective 1 May 2007. The new rules relax the requirement for a franchisor to have two outlets in China for one year to be allowed to franchise, but maintain the requirement for two directly operated outlets, although not necessarily in China. In addition, the franchisor is no longer required to bear all liability for the quality of products provided by the designated suppliers.[280]

286. The new rules impose a requirement on franchisors to file a record with MOFCOM within 15 days of execution of the franchise contract. If all requirements are met, the registration will be granted within ten days and the filing published on MOFCOM's website. The new rules also require the franchisor and franchisee to specify in the franchise agreement the period during which the franchisee can unilaterally rescind the agreement. The franchisee is allowed to rescind the contract if the franchisor conceals relevant information or provides false information.[281]

Direct selling

287. Direct selling, which typically refers to door-to-door sales by representatives, has been allowed in China since December 2005.[282] This is after a seven-year ban on direct selling

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Ltd, Urumqi County Petroleum Co. Ltd, and Xinjiang Zetian Petroleum & Chemicals Co. Ltd (*Market Avenue,* "China Issues Crude Oil and Oil Products Trading Licences", 6 August 2007).

[279] China Foreign Law & Practice (2006).

[280] China Law & Practice (2007b).

[281] China Law & Practice (2007b).

[282] The Regulations for the Administration of Direct Selling entered into force on 1 December 2005.

operations, due to concerns about certain fraudulent pyramid schemes.[283] Between December 2005 and June 2007, MOFCOM received applications from 24 foreign-invested direct selling enterprises and approved 14 of them[284]; five applications had been received from domestic companies by September 2007.

288. Under the regulations, compensation to a sales representative must be based only on sales revenues and cannot exceed 30% of such revenues. So-called "single-level direct selling" (where sellers receive compensation solely on the basis of their own sales revenues) has become the only legitimate way of operating direct selling since multi-level selling (where sellers receive additional compensation based on sales by sellers they themselves engaged) is associated with banned pyramid schemes. Single-level direct selling might be easier for authorities to control, including for consumer protection.[285]

289. Foreign suppliers must establish a commercial presence to conduct direct selling activities in China. Applications must be submitted to a provincial branch of MOFCOM and a decision for approval is taken within 90 days. The minimum capital requirement is Y 80 million, and a security deposit of Y 20 million is payable at the time of establishment; this is adjusted over time. These requirements apply equally to foreign and domestic suppliers. Other provisions for direct selling enterprises include: not requiring sales representatives to pay certain fees or purchase certain goods as a condition for hiring them; allowing the consumer to demand product replacement or return during the first 30 days if the products have not been unpacked; and the need to establish a branch in each province where direct selling takes place as well a store in each district where the direct sellers operate.[286] MOFCOM and SAIC issued the list of products allowed for direct selling, on 2 November 2005, which includes cosmetics, health food, cleaning products, health care equipment, and small kitchen utensils and appliances.[287]

290. Foreign investors must have at least three years of overseas direct selling experience, to be allowed to operate in China. The authorities indicate that this does not apply to domestic companies because, until recently, they had been prohibited from direct selling.[288] According to the authorities, direct selling enterprises can operate in all provinces, and there are no quantitative limits on branching.

(vii) Postal services

291. The evolution of China's postal and express delivery services has been mixed over the past two decades. On the one hand, fast growth and increased competition have dramatically changed the structure of the sector. On the other hand, regulatory reform is lagging behind and a new regulatory framework has yet to be established.

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283 Pyramid schemes remain banned through the Regulations for the Prohibition of Pyramid Selling, which entered in effect on 1 November 2005.

284 *Xinhua News Agency*, "19 Companies licensed to conduct direct selling", 8 May 2007. The 14 foreign suppliers are: Avon, Nu Skin Daily-use & Health Products, Pro-Health, Ningbo Yofoto Commodity, Oriflame Cosmetics, Kaslyju, For Your Health Technology, Marykay Cosmetics, Amway, Perfect, Guandong Apollo, Nanfang Lee Kum Kee Co., Herbalife Health Products, and Shaklee.

285 See World Federation of Direct Selling Associations online information. Viewed at: http://www.wfdsa.org.

286 China Trade Law & Practice (2005a) and (2005b).

287 Ministry of Commerce and State Administration for Industry and Commerce, Announcement (2005) No. 72 Announcing the Scope of Products that May be Sold Directly, 5 November 2002.

288 WTO document S/C/M/85, 12 December 2006, para. 26.

(a) Market overview

292. China's State Post Bureau functioned as both postal administrative authority and business operator until 29 January 2007 when it was split into two entities: a new State Post Bureau and China Post Group Corporation.

293. Both foreign and domestic private express delivery companies have engaged in international express letter services since the 1980s, and the State Post Bureau had to compete with them. While the revenue of its letter mail service has increased steadily over the past few years, the express mail services (EMS) has been its most profitable and fastest-growing business, representing about 24% of total annual postal services revenue (excluding revenue from postal savings).[289] Express mail services revenue reached Y 8.06 billion in 2006, an increase of 22.4% over the previous year.[290]

294. China Post Group Corporation is a fully state-owned company operating in both postal and non-postal services, including letter mail service, parcel service, stamps, EMS, distribution of newspapers and periodicals, logistics, agent and information service, and postal savings.

295. China's express delivery market has been open to competition since the 1980s. The four major international express delivery companies (DHL, FedEx, UPS, and TNT) all entered the market when the sector was opened and have gradually set up domestic networks in China, which are linked to their global networks.[291] The four companies have expanded business in China very quickly in recent years, including through the creation of wholly owned subsidiaries and the establishment of air cargo hubs or handling centres. According to their own estimates, their business in China grew at an annual average of 50% in 2000-04.[292] China's international express delivery market is highly concentrated, as the four companies account for nearly 80%[293]; the China Post Group Corporation is now the only domestic company that has the capacity to compete with them.

296. There are now more than 2,000 domestic express delivery companies operating in the market, including state-owned and private companies. These companies provide mainly domestic intra-city or inter-city express parcel delivery services.[294] DHL and FedEx have recently extended their business in China to domestic express parcel delivery services.[295]

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[289] WTO document S/C/M/85, 12 December 2006.

[290] WTO document S/C/M/85, 12 December 2006.

[291] In 1980, when China Post first founded its commercial arm, Express Mail Service (EMS), DHL entered China's express delivery market through an agent agreement with Sinotrans, a fully state-owned shipping company. FedEx and UPS also signed agent agreements with Sinotrans in 1984 and 1988, respectively. In 1985, the first express delivery joint venture in China was established between DHL and Sinotrans, with registered capital of US$500,000 in a 50:50 partnership. TNT, UPS and FedEx established their joint ventures in China in 1988, 1996 and 1999, respectively.

[292] European Express Association (2006).

[293] European Express Association (2006).

[294] The first (and only official) statistics of China's express delivery services were published on 29 June 2007 (State Postal Bureau online information. Viewed at: http://www.post.gov.cn). At end 2006, there were 2,422 companies operating express delivery services, employing 227,000 people and generating total revenue of Y 29.97 billion, of which domestic express delivery services accounted for 60% and international express delivery services 40%. Among those companies, fully state-owned companies account for 1.7%, fully domestically-owned private companies 36.6%, other joint-stock companies and limited liability companies 57.3%, and foreign-invested companies 2.4%.

[295] FedEx is now operating in more than 200 Chinese cities and plans to extend its network to another 100 in the next few years. (FedEx Press Release, "FedEx Announces Plans for Expansion in China",

(b) Regulatory framework and recent reforms

297. China's main postal regulations include the Postal Law and its Implementation Rules, which entered into force on 1 January 1987 and 2 November 1990, respectively.[296] The State Postal Bureau is the competent authority for postal services. In addition, there are postal bureaux within the regional and local governments (at provincial, municipality or county level). These bureaux were previously both administrative authorities and operators of postal services – "postal enterprises".[297] Exclusive rights are granted to postal bureaux to handle letters and other articles with characteristics of letter.[298]

298. Express delivery services in China are not regulated by the postal administrative authority. Foreign express delivery companies must register with MOFCOM, and are licensed by the State Administration of Industry and Commerce (SAIC). Domestic express delivery companies must register with the provincial or local level Administration of Industry and Commerce.

299. The Postal Reform Scheme, approved by the State Council in August 2005, called for the separation of administrative functions from postal business activities; the restructuring of postal supervision institutions and the setting up of China Post Group Corporation; the reorganization of postal services and postal savings; and the improvement of the mechanisms related to universal service, special service, safety guarantee, and pricing.

300. As a result, China Post Group Corporation was formally established on 29 January 2007, marking the formal separation of business activities from administrative functions of the State Post Bureau. The newly established Corporation is a fully state-owned company with registered capital of Y 80 billion. The new State Post Bureau now serves as the regulator of postal services; its main functions include: making postal development policies; drafting postal regulations; monitoring the postal market; regulating access to the postal market; establishing postal services standards; and regulating tariffs.[299] More measures are to be taken to restructure the sector, to separate competitive and non-competitive activities of China Post Group Corporation, and to define the operational scope of its subsidiaries.

301. As part of the postal regulatory reform, the State Post Bureau's first Express Delivery Service Standards became effective on 1 January 2008. This document defines express service as well as various types of express services, such as urban, inland, and international services. It also establishes criteria regarding the quality of express services and the capacity of enterprises wishing to engage in express services. It specifies standards related to size and weight of delivery items, delivery time, pricing, express service contracts, and management of express delivery enterprises. In addition, it contains provisions to address complaints from customers. According to an explanation by the State Post Bureau, the standards document is recommendatory, but it applies to all express delivery operators in the market, regardless of their legal nature.[300]

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24 October 2004. Viewed at: http://www.fedex.com/cgi-bin/content.cgi?template=gb_pr&content=about/press releases/emea/ pr102404&cc=gb.)

[296] Article 2 of the Implementation Rules of the Postal Law. The Ministry of Post and Telecommunications was the competent authority for postal services under the State Council, administering postal services throughout the country. In 1998, the Ministry of Information Industry (MII) was established to replace the Ministry of Post and Telecommunications and the Ministry of Electronics, and the State Postal Bureau, established under the MII, became the competent authority for postal services.

[297] Article 3 of the Implementation Rules of the Postal Law.

[298] Article 4 of the Implementation Rules of the Postal Law.

[299] See State Postal Bureau online information. Viewed at: http://www.post.gov.cn.

[300] State Postal Bureau online information. Viewed at: http://www.post.gov.cn. (In Chinese only)

302. China's Postal Law grants exclusive rights to the State Post Bureau to provide letter mail service (as reflected in China's GATS commitments). Nonetheless, it would appear that this segment of the market has been *de facto* open to competition. Shortly after China's accession to the WTO, two Notices were issued to regulate the market for international express letter services, from December 2001 to February 2002. These measures required domestic and foreign-invested express delivery companies to obtain "entrustment" from the postal administrative authority and to comply with new weight and rate restrictions on the letters they could handle.[301] Concerns were raised by some WTO Members about the consistency of these measures with China's horizontal "acquired rights" commitments under the GATS.[302] After consultations with these Members, China issued two Notices (in September and October 2002) to simplify the entrustment application process and remove the weight and rate restrictions.[303] According to the authorities, the entrustment is not a second approval procedure. Foreign companies' existing and new branches do not need separate entrustment. At end 2005, 167 international freight agencies and 327 branches engaged in international mail express delivery had obtained the Postal Entrustment Certificate.[304]

303. Efforts have also been made to amend the apparently outdated Postal Law. According to the authorities, draft amendments are being prepared after soliciting opinions from domestic and foreign companies.

(viii) Legal services

(a) Market overview

304. The provision of legal services in China is segmented into services concerning Chinese law, and services relating to foreign law. A foreign law firm's representative office is permitted to provide consultancy services on the laws of its practitioners' home jurisdictions, and on international conventions and international practices. In addition, it can be entrusted by clients or Chinese law firms to handle legal affairs of the country where the lawyers of the law firm are permitted to practice, and can entrust, on behalf of foreign clients, Chinese law firms to deal with Chinese legal affairs. In doing so, a foreign law firm's representative office may enter into contracts to maintain long-term entrustment relations with Chinese law firms.[305] A foreign law firm representative may also provide clients with information on the impact of the Chinese legal environment.[306]

305. The numbers of Chinese law firms and the representative offices of foreign and Hong Kong SAR law firms have grown steadily since 2002 (Table IV.10). All foreign law firms' representative

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[301] Notice No. 629 issued by MII, MOFTEC, and SPB on 20 December 2001; Notice No. 64 issued by SPB on 4 February 2002. "Entrustment" means that the postal administrative authority will allow qualified enterprises to conduct international express delivery services after registration in accordance with relevant laws and regulations.

[302] Communications respectively from the EC, the United States, and Japan, contained in WTO documents S/C/W/211, S/C/W/212 and S/C/W/213.

[303] Notice No. 472 by MII, MOFTEC, and SPB of 5 September 2002, and Notice No. 556 issued by SPB.

[304] Information provided by MOFCOM.

[305] No statistics are available on the number of short- and long-term entrustments. According to the authorities, compilation of information in that regard only began in 2007.

[306] The scope of business for foreign law firms representative offices is set out in almost identical terms in China's GATS Schedule of Specific Commitments, GATS/SC/135, p. 6; and Article 15 of the Regulations on Administration of Foreign Law firm's Representative Offices in China; Decree No. 338 of the State Council, published on 22 December 2001, and effective 1 January 2002, henceforth "the Regulations".

offices are 100% foreign owned.[307] At the end of 2006, these foreign-funded law firms employed 410 lawyers.

Table IV.10
Law firms and representative offices, 2002-07

Year	Hong Kong-funded representative offices	Foreign-funded representative offices	Domestic-funded law firms
2002	25	91	10,873
2003	35	116	11,593
2004	45	144	11,823
2005	54	165	12,428
2006	59	179	13,096
31 July 2007	60	191	..

.. Not available.

Source: Data provided by the Chinese authorities.

306. Foreign and Chinese local firms generally work together on large M&A deals and cross-border matters; foreign firms ensure that deals are in accordance with international standards and local firms ensure compliance with Chinese law.

(b) Regulatory framework

307. With the elimination of geographic and quantitative limitations a year after China's accession to the WTO, foreign law firms are entitled to operate one or more representative offices in all provinces. Foreign lawyers working in representative offices must be members of a bar or law society of a WTO Member and have practiced for no less than two years outside of China. They must reside in China for at least six months per year. For a foreign lawyer employed by representative offices to have "representative" status, the foreign law firm must apply to and obtain approval from the competent authorities. Foreign lawyers can be employed by the representative offices as "support staff", who must not provide legal service to the clients. The chief representative must be a partner or equivalent (e.g., member of a law firm of a limited liability corporation) of a law firm of a WTO Member and have practiced for no less than three years. A representative office may not employ Chinese national registered lawyers.

Licensing and other regulations

308. The licensing system is based on a two-tier examination process, involving legislative and administrative authorities of provinces where the representative offices are based, as well as the judicial administration department of the State Council (Ministry of Justice), who effectively grants the licences to establish a representative office and post representatives.

309. In order to obtain a licence, a law firm must meet the requirements set out in China's GATS schedule regarding representatives and the chief representative (in particular two and three years prior practise outside China, respectively); it must have been practicing lawfully in its home country and never been subject to punishment for a violation of lawyers' professional ethics or practicing

[307] The representative offices in mainland China come from 19 countries (i.e. Australia, Brazil, Canada, France, Germany, India, Italy, Japan, Jordan, Korea, the Netherlands, Norway, Singapore, Spain, Sweden, Switzerland, the United Arab Emirates, the United Kingdom, the United States) and 1 region (Hong Kong SAR).

disciplines; and "practical need" must exist to establish a representative office in China to conduct legal service.[308] This is determined according to the social and economic development status of the place of domicile of the representative office to be established; the need for legal service development in the place of domicile of the representative office to be established; the applicant's scale, time of establishment, major business areas and professional specialties, analysis of the business prospect and planning of future business development; and restrictions in China's laws and regulations on specific legal services or affairs.[309]

310. Licence application documents are submitted to the judicial administration department in the location of the proposed representative office. These bodies must complete their examination within three months and submit their opinions and the application documents to the judicial administration department of the State Council for re-examination; the State Council takes a decision within six months, and if the application is successful, issues a licence certificate to practice.[310]

311. A law firm must have a registered representative office for three successive years in China before it may open an additional representative office.[311] The licensing process is the same as for the initial office. A representative in one office cannot concurrently act as a full-time or part-time representative in another office.[312] Authorization by the judicial administration department of the State Council is required for a change of name of a representative office or the reduction or representatives.

312. Foreign law firms' representative offices are supervised and administered by the judicial administration department of the State Council and the province, autonomous region or municipality directly under the Central Government.[313] They must register annually[314], and submit annual information on their performance of legal services, including those entrusted to Chinese law firms. They must also provide audited financial statements and documents verifying that all accounts have been settled and taxes paid.

313. There are no restrictions on fees charged by representative offices. It would appear that foreign representative offices usually charge on an hourly basis, while Chinese law firms charge fees in various ways, such as on a flat fee, hourly, or contingency basis, or proportional to the amount in dispute.

314. As mentioned above, foreign law firm's representative offices may engage in short-term or long-term entrustment activities with Chinese law firms. While the term entrustment is not defined, Articles 39 and 40 of the Implementing Provisions (Decree 73) clarify that a foreign law firm cannot invest in a Chinese law firm, operate on an associate basis, establish joint offices, dispatch personnel to work in a Chinese law firm, or manage, operate, or control any equity interests in a Chinese law firm. Foreign representative law offices may not employ licensed Chinese lawyers; any agreement on profit or risk sharing and any payment of fees, remuneration, or dividends between such offices and licensed Chinese lawyers are prohibited.

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[308] Articles 6 and 7 of the Regulations.

[309] Article 4 of the Provisions of the Ministry of Justice on the Execution of the Regulations on the Administration of Foreign Law Firms' Representative offices in China (Decree No. 73 of Ministry of Justice, modified by Decree No. 92 of Ministry of Justice and implemented on 2 September 2004), henceforth "Decree No. 73".

[310] Article 9 of the Regulations.

[311] Article 10 of Decree No. 73.

[312] Article 18 of the Regulations.

[313] Article 21 of the Regulations.

[314] Article 10 of the Regulations.

315. Foreign lawyers are not allowed to practice Chinese law. Chinese nationals that are permanent residents in the Hong Kong SAR and allowed to practice law there may qualify to practice Chinese law upon passing the state judicial examination and obtaining the legal professional qualification and practicing certificate.

Commercial arbitration

316. Commercial arbitration is a growing market. The China International Economic and Trade Arbitration Commission (CIETAC) remains among the busiest arbitration centres in the world. Representative offices and their representatives may participate as agents in foreign arbitration cases involving Chinese laws and foreign laws (or international laws) simultaneously, and present opinions or comments on foreign laws and international laws. However, they are prohibited from giving opinions or comments on Chinese laws in arbitration.

(ix) Accountancy services

(a) Market overview

317. According to the Chinese Institute of Certified Public Accountants (CICPA), total revenue of certified public accountants (CPAs) in 2006 exceeded Y 22 billion. The CICPA, founded in 1988, exercises its functions in accordance with the Law on Certified Public Accountants, the Charter of the Chinese Institute of Certified Public Accountants, and other relevant laws and regulations.[315]

318. The responsibilities of the CICPA include monitoring the service quality and professional ethics of members and regulating the CPA profession according to the relevant laws. At end January 2008, the CICPA had more than 6,300 group members (accounting firms, including six Sino-foreign companies), and over 150,000 individual members, among whom about 80,000 were practicing members. CICPA has been a member of the Confederation of Asian and Pacific Accountants (CAPA) since October 1996, and the International Federation of Accountants (IFAC) since May 1997.

(b) Regulatory framework and recent reforms

Accounting and auditing standards

319. The Ministry of Finance issued a new Accounting Standard System for Business Enterprises in February 2006; the Standards, applicable to listed companies, entered into force on 1 January 2007. According to the authorities, the Chinese standards differ from international standards only in a few aspects. China has made significant effort to narrow those differences; since 2005, it has held a series of meetings with the International Financial Reporting Council with the aim of improving harmonization. New Auditing Standards for Certified Public Accountants have been applied since 1 January 2007.

Licensing and qualification requirements for individuals

320. The accountancy profession in China is regulated by the Accounting Law, and the Law on Certified Public Accountants. The national examination is a required qualification. To apply for the examination, candidates must abide by accounting laws and other financial laws/regulations; have good moral conduct; and have basic knowledge and skills of accounting.

[315] CICPA online information. Viewed at: http://www.cicpa.org.cn/english.htm.

321. A CPA qualification is required in order to provide CPA auditing service. Holders of the national CPA examination who have been engaged in auditing services in China for more than two years can register as CPAs. Citizens of Hong Kong SAR, Macao SAR and Chinese Taipei are accorded national treatment in regard to the issuance of a Chinese CPA certificate; foreigners are accorded national treatment based on the principle of reciprocity. Residents of Hong Kong or Macao SARs that meet requirements specified in the Provisional Regulatory Rules on the Qualification for Accounting Technicians are allowed to participate in the exams of the Accounting Technician Qualification.[316]

Licensing system for accountancy firms

322. According to the Interim Measures for the Examination, Approval and Supervision of Accounting Firms (Order No. 24 of the Ministry of Finance), any Chinese certified public accountant (including Chinese and foreign citizens with Chinese CPA certification) may apply to establish a partnership accounting firm or a limited liability accounting firm. The requirements for a partnership are: two or more partners; a written partnership agreement; a name for the accounting firm; and a fixed office. To establish a limited liability accounting firm, there must be: five or more shareholders; a fixed number of full-time professional staff; registered capital of not less than Y 300,000; articles of association jointly drawn up by the shareholders; a company name and a fixed office.

323. Partners or shareholders of an accounting firm must: hold the Chinese Certified Public Accountant Certificate (CPAC); be full-time practitioners in an accounting firm; not have been subject to administrative punishment due to accountancy practice within the three previous years; have had relevant auditing experience in accounting firms, as a CPAC holder, for the five previous consecutive years, of which at least three years in China; and have not been rejected, disapproved or revoked as an accountant the year prior to becoming a partner or shareholder.

324. To establish a branch, an accounting firm must, *inter alia*, have a sound internal management system; consists of at least 50 CPAs (excluding the CPAs to practice in the branch); have most recent year-end aggregate net assets and professional risk fund of not less than Y 3 million (for a limited liability accounting firm) or not less than Y 1.5 million (for a partnership accounting firm).

Scope of permitted activities of foreign accountancy firms

325. Under the Law on Certified Public Accountants, public accounting firms may undertake statutory audit services of certified public accountants, including examining companies' statements of accounts and producing audit reports; producing capital verification reports; and audit services in regard to mergers, divisions or liquidations. With permission from the Ministry of Finance, foreign public accounting firms can establish resident representative offices and undertake professional services temporarily in China, but they may not undertake statutory audit services of certified public accountants.

326. According to the Provisional Regulations on Resident Offices of Overseas Public Accounting Firms, the business scope of resident offices of foreign public accounting firms include providing accounting, tax, and other services to foreign clients that invest or do business in China, and providing information on international taxation and other consulting services to Chinese clients. Under the Interim Regulation on Audit Services Supplied Temporarily by Foreign Public Accounting Firms in China, these temporary services are limited to those undertaken by their parent companies abroad.

[316] APEC (2006).

(x) Tourism

(a) Market overview

327. Tourism is China's largest services export, and its second-largest service import; both exports and imports have risen rapidly in recent years (Table IV.11). According to Chinese government figures, as reported to the United Nations' World Tourism Organization (UNWTO), China received an estimated 49.6 million visitors (overnight tourists) in 2006, and ranked 4th in the world behind France, Spain, and the United States. However, tourist arrivals increased by 6.6% in 2006, down from 12% in 2005, perhaps influenced by the appreciation of renminbi. China ranked 5th in terms of receipts in 2006, at an estimated US$33.9 billion, behind the United States, Spain, France, and Italy. With respect to outbound tourism, 34.5 million Chinese travelled abroad in 2006, an increase of 11% over 2005, while spending increased by 16%. In 2006, China ranked 6th worldwide in tourism expenditures, at an estimated US$24.3 billion, behind only Germany, the United Kingdom, the United States, France, and Japan.[317]

Table IV.11
China's international tourism receipts and expenditures
(US$ billion)

	1995	2000	2004	2005	2006
International receipts	8.7	16.2	25.7	29.3	33.9
International expenditures	3.7	13.1	19.1	21.8	24.3

Source: World Tourism Organization (2007), *World Tourism Barometer,* Vol. 5, N° 2, June 2007.

(b) Regulatory framework and recent reforms

Hotels and restaurants

328. Occupancy rates for hotels in Beijing and Shanghai were 74.1% and 69.5%, respectively, in 2006, down from 75.9% and 72.6% in 2005.[318] There are some 4.3 million hotels and restaurants in China employing around 33 million people. Within the four- and five-star hotel sector, about 170 additional hotels have been promised to the International Olympic Committee, through new-builds and reconstruction.[319] The economy sector is also growing rapidly: it is estimated that at end 2006, there were more than 100 economy hotel brands in the China market, owning over 1,000 hotels, nearly double the previous year's figures; domestic brands face stiff competition from foreign brands.[320]

329. Since its accession to the WTO, China has gradually opened its hotel market to international development and competition. By end 2005, it had opened the market for foreigners to invest in hotels, restaurants, and other mixed-used real estate development projects. International competition has posed great challenges for domestic hotels, of which 57% were owned by various government entities. The performance of many domestic hotels lagged behind that of internationally managed operations due mainly to management inefficiency. To prepare domestic hotels – particularly state-owned hotels – for global competition, the Government has initiated fundamental reforms in the hotel industry.[321] According to the authorities, there are no limitations on foreign investment in the hotel sector. However, international brands, particularly in the luxury segment, prefer to sign management

[317] UNWTO (2007), No. 2, June.
[318] UNWTO (2007), No. 1, January.
[319] WTTC (2006).
[320] *China Retail News,* 30 April 2007.
[321] Yu and Gu (2005), p. 153.

agreements with the hotels' owners. In the case of medium-sized economic hotels, there is a tendency to invest directly, because of market potential. At end 2006, there were 302 five-star hotels in China, among which 57 were foreign-invested; among the 1,369 four-star hotels, 65 were foreign-invested.

Travel agencies and tour operators

330. Foreign investment in travel agencies and tour operators is regulated by the Regulations on the Administration of Travel Agencies, and the Interim Provisions on the Establishment of Foreign-Controlled and Wholly Foreign-funded Travel Agencies. In February 2005, the National Tourism Administration and MOFCOM jointly issued amendments to the Interim Provisions, which reduced the minimum registered capital requirement for sino-foreign and wholly foreign-owned travel agencies from Y 4 million to Y 2.5 million; geographical limitations to foreign-invested travel agencies were eliminated. After amendments to relevant laws and regulations, foreign travel agencies are to be allowed to establish new branches in China. Minimum capital requirements are Y 1.5 million for a Chinese-owned international travel agency and Y 300,000 for a domestic travel agency.

331. Joint-venture travel agencies with foreign majority share ownership have been allowed since 1 January 2003, and wholly foreign-owned travel agencies since 31 December 2005. At mid 2007, there were 29 foreign-invested travel agencies, including 12 wholly foreign-owned and nine foreign controlled; total revenue of foreign-invested travel agencies represented 1.6% of the total industry revenue (inbound and outbound tourism). Foreign-invested travel agencies are not allowed to conduct outbound travel business.

Approved destination status

332. According to the authorities, all countries may apply for approved destination status (ADS) as an overseas destination for Chinese citizens. China introduced the ADS for reasons related to protecting the safety, as well as the legitimate rights and interests of Chinese citizens travelling out of China. The authorities state that ADS is granted upon application.[322] At end December 2007, Chinese (mainland) nationals may visit 134 countries and regions, up from 18 in 2001, with a total of 86 destinations approved for group travel. Competition between destinations for China's tourists has intensified greatly.[323]

Foreign exchange requirements

333. According to the authorities, travel agencies may purchase foreign exchange from a bank based on their actual needs. Travellers can buy foreign exchange for personal use directly from the banks. Travellers planning to stay abroad for less than half a year may buy the equivalent of US$5,000 in foreign exchange, by providing their passport and a valid visa. For a longer stay, travellers are allowed to buy up to US$8,000. In addition, travellers can make purchases in foreign countries using foreign currency credit cards issued by banks in China.[324]

Tour guides

334. No changes have been introduced to the regulations governing tour guides since China's accession to the WTO. Only Chinese citizens may work, upon approval, as tour guides. Applicants must pass an examination for tour guide qualifications.

[322] WTO document WT/TPR/M/161/Add.1, p. 313.
[323] UNWTO (2007), No. 2, June.
[324] WTO document WT/TPR/M/161/Add.2, p. 112.

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APPENDIX TABLES

Table AI.1
Merchandise exports by group of products, 2004-07
(US$ billion and per cent)

	2004	2005	2006	2007
Total exports (US$ billion)	593.3	762.0	969.0	1,218.0
		(Per cent)		
Processed exports	55.3	54.7	52.7	50.7
Total primary products	8.4	7.9	7.3	6.6
Agriculture	4.1	3.8	3.4	3.2
Food	3.5	3.2	2.9	2.7
Agricultural raw material	0.6	0.5	0.5	0.5
Mining	4.3	4.1	4.0	3.4
Ores and other minerals	0.3	0.4	0.3	0.2
Non-ferrous metals	1.6	1.4	1.9	1.6
Fuels	2.4	2.3	1.8	1.6
Manufactures	91.4	91.9	92.4	93.2
Iron and steel	2.3	2.5	3.4	4.2
Chemicals	4.4	4.7	4.6	5.0
Other semi-manufactures	7.4	7.6	7.8	7.7
Machinery and transport equipment	45.2	46.2	47.1	47.4
Power generating machines	0.8	0.8	0.8	..
Other non-electrical machinery	4.5	4.7	5.0	5.6
Office machines & telecommunication equipment	29.0	29.7	29.7	..
7522 Digital automatic data processing machines, containing in the same housing at least a central processing unit	3.9	4.3	4.5	..
7643 Radio or television transmission apparatus	2.7	3.1	3.7	..
7599 Parts and accessories of 751.1, 751.2, 751.9 and 752	4.1	3.8	3.4	..
7649 Parts and accessories for apparatus of division 76	3.1	3.3	3.2	
7526 Input or output units for automatic data processing machines, whether or not presented with the rest of a system and whether or not containing storage units in the same housing	3.8	3.3	2.7	..
7764 Electronic integrated circuits and microassemblies	1.9	1.9	2.2	
7638 Sound/video recording/reproducing apparatus; video recording/reproducing apparatus	2.7	2.7	2.2	..
7611 Colour television receivers	0.9	1.1	1.3	..
7527 Storage units for data processing	1.2	1.2	1.2	..
7641 Electrical apparatus for line telephony/telegraphy	1.0	1.0	1.0	..
Other electrical machines	7.2	7.1	7.4	..
7712 Other electric power machinery; parts of 771	1.0	1.0	1.0	..
7758 Electro-thermic appliances, n.e.s.	1.0	1.0	0.9	..
Automotive products	1.1	1.3	1.5	..
Other transport equipment	2.7	2.7	2.7	..
Textiles	5.6	5.4	5.0	4.6
Clothing	10.4	9.7	9.8	9.5
Other consumer goods	15.9	15.7	14.7	14.9
8719 Liquid crystal devices, n.e.s.; lasers (excl. laser diodes)	1.2	1.5	1.4	..
Other	0.2	0.2	0.2	0.2

.. Not available.

Source: UNSD, Comtrade database (SITC Rev.3); and General Administration of Customs (2007), *China's Customs Statistics: Monthly Exports & Imports*, 12, Series No. 220.

Table AI.2
Merchandise imports by group of products, 2004-07
(US$ billion and per cent)

	2004	2005	2006	2007
Total imports (US$ billion)	561.2	660.0	791.5	955.8
		(Per cent)		
Processed imports	39.5	41.5	40.6	38.5
Total primary products	23.4	25.0	26.5	28.8
Agriculture	7.5	6.8	6.5	6.8
Food	3.8	3.3	2.9	3.4
2222 Soya beans	1.2	1.2	0.9	..
Agricultural raw material	3.8	3.6	3.6	3.4
Mining	15.9	18.1	20.0	22.0
Ores and other minerals	4.8	5.8	5.9	7.6
2815 Iron ores and concentrates, not agglomerated	1.9	2.4	2.4	..
Non-ferrous metals	2.5	2.6	2.9	3.4
Fuels	8.6	9.7	11.2	11.0
3330 Crude oils of petroleum and bituminous minerals	6.0	7.2	8.4	..
Manufactures	76.3	74.7	73.2	70.9
Iron and steel	4.2	4.0	2.7	2.5
Chemicals	11.7	11.8	11.0	11.2
Other semi-manufactures	3.8	3.4	3.3	3.1
Machinery and transport equipment	45.0	44.0	45.1	43.2
Power generating machines	1.2	1.2	1.1	..
Other non-electrical machinery	10.3	8.5	8.0	7.5
7284 Machinery and appliances for particular industries, n.e.s.	2.2	1.6	1.5	..
Office machines & telecommunication equipment	22.9	24.3	25.0	..
7764 Electronic integrated circuits and microassemblies	10.9	12.4	13.4	..
7649 Parts and accessories for apparatus of division 76	3.2	3.3	3.2	..
7599 Parts and accessories of 751.1, 751.2, 751.9 and 752	2.6	2.5	2.4	..
7527 Storage units for data processing	1.5	1.7	1.7	..
7763 Diodes, transistors, etc.	1.3	1.3	1.3	..
Other electrical machines	6.3	6.3	6.6	..
7722 Printed circuits	0.9	1.0	1.1	..
7725 Switches, relays, fuses etc. for a voltage not exceeding 1000 V	0.8	0.9	1.0	..
Automotive products	2.6	2.1	2.3	..
7843 Other motor vehicle parts and accessories of 722, 781 to 783	1.3	1.0	1.1	..
Other transport equipment	1.7	1.6	2.1	..
7924 Aeroplanes, etc. (excl. helicopters), >15,000 kg unladen	0.7	0.8	1.2	..
Textiles	2.7	2.3	2.1	1.7
Clothing	0.3	0.2	0.2	0.2
Other consumer goods	8.7	9.0	8.8	8.9
8719 Liquid crystal devices, n.e.s.; lasers (excl. laser diodes)	4.1	4.6	4.5	..
Other	0.3	0.3	0.3	0.3

.. Not available.

Source: UNSD, Comtrade database (SITC Rev.3); and General Administration of Customs (2007), *China's Customs Statistics: Monthly Exports & Imports,* 12, Series No. 220.

Table AI.3
Merchandise exports by destination, 2004-07
(US$ billion and per cent)

	2004	2005	2006	2007
Total exports (US$ billion)	593.3	762.0	968.9	1,218.0
		(Per cent)		
America	25.5	26.0	26.3	24.9
United States	21.1	21.4	21.0	19.1
Other America	4.4	4.6	5.3	5.8
Canada	1.4	1.5	1.6	1.6
Mexico	0.8	0.7	0.9	1.0
Europe	19.3	20.2	20.9	21.8
EC(25)	18.1	18.9	18.8	20.1
Germany	4.0	4.3	4.2	4.0
Netherlands	3.1	3.4	3.2	3.4
United Kingdom	2.5	2.5	2.5	2.6
Italy	1.6	1.5	1.6	1.7
France	1.7	1.5	1.4	1.7
Spain	0.9	1.1	1.2	1.4
Belgium	1.0	1.0	1.0	1.0
EFTA	0.4	0.4	0.4	0.5
Other Europe	0.8	0.9	1.7	1.2
Commonwealth of Independent States (CIS)[a]	2.3	2.8	2.9	3.9
Russian Federation	1.5	1.7	1.6	2.3
Africa	2.3	2.4	2.7	3.1
Middle East	2.9	2.9	3.1	3.6
United Arab Emirates	1.2	1.1	1.2	1.4
Asia	47.6	45.6	44.0	42.8
Japan	12.4	11.0	9.5	8.4
Six East Asian Traders	28.4	27.7	27.6	26.5
Hong Kong, China	17.0	16.3	16.0	15.1
Korea, Rep. of	4.7	4.6	4.6	4.6
Singapore	2.1	2.2	2.4	2.4
Chinese Taipei	2.3	2.2	2.1	1.9
Malaysia	1.4	1.4	1.4	1.5
Thailand	1.0	1.0	1.0	1.0
Other Asia	6.8	6.8	7.0	7.9
India	1.0	1.2	1.5	2.0
Australia	1.5	1.5	1.4	1.5
Indonesia	1.1	1.1	1.0	1.0
Memorandum:				
APEC	70.2	68.6	66.6	63.7
ASEAN	7.2	7.3	7.4	7.7
EC(15)	16.8	17.7	17.5	18.2

a Commonwealth of Independent States (CIS) comprises Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

Source: UNSD, Comtrade database (SITC Rev.3); and General Administration of Customs (2007), *China's Customs Statistics: Monthly Exports & Imports*, 12, Series No. 220.

Table AI.4
Merchandise imports by origin, 2004-07
(US$ billion and per cent)

	2004	2005	2006	2007
Total imports (US$ billion)	561.2	660.0	791.4	955.8
		(Per cent)		
America	13.1	12.6	12.8	13.8
United States	8.0	7.4	7.5	7.3
Other America	5.2	5.2	5.3	6.5
Canada	1.3	1.1	1.0	1.1
Brazil	1.5	1.5	1.6	1.9
Europe	13.6	12.1	12.3	12.6
EC(25)	12.5	11.2	11.4	11.6
Germany	5.4	4.7	4.8	4.7
France	1.4	1.4	1.4	1.4
Italy	1.1	1.0	1.1	1.1
United Kingdom	0.8	0.8	0.8	0.8
EFTA	0.9	0.8	0.7	0.8
Other Europe	0.2	0.2	0.2	0.2
Commonwealth of Independent States (CIS)[a]	2.9	3.1	2.9	2.9
Russian Federation	2.2	2.4	2.2	2.1
Africa	2.8	3.2	3.6	3.8
Angola	0.8	1.0	1.4	1.3
Middle East	3.9	4.7	5.2	5.0
Saudi Arabia	1.3	1.9	1.9	1.8
Iran Islamic Rep.	0.8	1.0	1.3	1.4
Asia	56.8	55.9	54.0	53.0
Japan	16.8	15.2	14.6	14.0
Six East Asian Traders	32.5	32.5	31.2	30.0
Korea, Rep. of	11.1	11.6	11.3	10.9
Chinese Taipei	11.5	11.3	11.0	10.6
Malaysia	3.2	3.0	3.0	3.0
Thailand	2.1	2.1	2.3	2.4
Singapore	2.5	2.5	2.2	1.8
Hong Kong, China	2.1	1.9	1.4	1.3
Other Asia	7.5	8.2	8.2	9.0
Australia	2.1	2.5	2.4	2.7
Philippines	1.6	2.0	2.2	2.4
India	1.4	1.5	1.3	1.5
Indonesia	1.3	1.3	1.2	1.3
Other	6.9	8.4	9.3	9.0
Free zones	6.9	8.4	9.3	9.0
Memorandum:				
APEC	74.7	74.8	73.6	72.3
ASEAN	11.2	11.4	11.3	11.3
EC(15)	12.2	10.9	11.0	11.1

a Commonwealth of Independent States comprises Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

Source: UNSD, Comtrade database (SITC Rev.3); and General Administration of Customs (2007), *China's Customs Statistics: Monthly Exports & Imports*, 12, Series No. 220.

Table AII.1
China's major trade-related laws and regulations, April 2008

Legislation (comment)	Adoption of latest amendment	Entry into effect	Date of first adoption
Foreign trade, exchange restrictions and foreign investment			
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	18 Aug 2004	1 Jan 2005	
Regulation on the Administration of the Import and Export of Goods (G/LIC/N/1/CHN/4)	31 Oct 2001	1 Jan 2002	
Rules for the Registration of Foreign Trade Operators	19 June 2004	1 July 2004	
Rules on Investigations of Foreign Trade Barriers (Replaced 2002 Provisional Rules on Investigations of Foreign Trade Barriers)	21 Jan 2005	1 Mar 2005	
Regulations on the Export Control of Arms Products	15 Oct 2002[a]	15 Nov 2002	22 Oct 1997
Regulations on the Export Control of Nuclear Products	1 Nov 2006	1 Nov 2006	1 Aug 1997
Regulations on the Export Control of Dual-purpose Biological Products and Relevant Equipment and Technology	14 Oct 2002[a]	1 Dec 2002	
Regulations on the Export Control of Dual-purpose Nuclear Products and Related Technologies	26 Jan 2007	26 Jan 2007	10 June 1998
Regulations on the Export Control of Missiles and Related Items and Technologies	22 Aug 2002[a]	22 Aug 2002	
Regulations on the Export Control of Certain Chemicals and Related Equipment and Technologies	19 Oct 2002[a]	19 Oct 2002	
Regulations on Foreign Exchange Control	14 Jan 1997[a]	14 Jan 1997	5 Dec 1980
Decision of the Standing Committee of the NPC on Punishing Crimes of Fraudulently Purchasing, Evading and Illegally Trading in Foreign Exchange	16 Dec 1998	25 Jan 1999	
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	22 July 2001[a]	22 July 2001	20 Sep 1983
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[a]	4 Sept 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[a]	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	11 Feb 2002	1 Apr 2002	7 June 1995
Measures for the Administration of Partnership Enterprise Registration	9 May 2007	1 June 2007	19 Nov 1997
Customs- and tariff-related regulations			
Customs Law	8 July 2000	1 Jan 2001	22 Jan 1987
Regulations on Import and Export Tariff (G/VAL/N/1/CHN/4)	29 Oct 2003	1 Jan 2004	18 Mar 1992
Anti-dumping Regulations (G/ADP/N/1/CHN/2/Suppl.3)	31 Mar 2004[a]	1 June 2004	26 Nov 2001
Regulations on Countervailing Measures (G/SCM/N/1/CHN/1/Suppl.3)	31 Mar 2004[a]	1 June 2004	31 Oct 2001
Safeguard Regulations (G/SG/N/1/CHN/2/Suppl.3)	31 Mar 2004[a]	1 June 2004	26 Nov 2001
Regulations on Customs Protection of Intellectual Property (IP/N/1/CHN/2/Add.1)	26 Nov 2003	1 Mar 2004	5 July 1995
Regulations on Customs Statistics	25 Dec 2005	1 Mar.2006	
Regulations on Export Products Responding to Antidumping Cases	14 July 2006	14 Aug 2006	
Standards and technical regulations			
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	29 Dec 1988	1 Apr 1989	
Regulations for the Implementation of the Standardization Law	6 Apr 1990	6 Apr 1990	
Law on the Entry and Exit Animal and Plant Quarantine	30 Oct 1991	1 Apr 1992	
Regulations for Implementation of the Law on the Entry and Exit Animal and Plant Quarantine	2 Dec 1996	1 Jan 1997	
Food Hygiene Law	30 Oct 1995	30 Oct 1995	
Law on Product Quality	8 July 2000	1 Sept 2000	22 Feb 1993
Regulations for Compulsory Product Certification	3 Dec 2001	1 May 2002	
Regulations on Inspection and Quarantine of Entry and Exit Aquatic Products	18 Oct 2002	10 Dec 2002	

Table AII.1 (cont'd)

Legislation (comment)	Adoption of latest amendment	Entry into effect	Date of first adoption
Frontier Health and Quarantine Law	2 Dec 1986	1 May 1987	
Regulations on Authentication and Approval	20 Aug 2003	1 Nov 2003	
Regulations for Safety Control of Dangerous Chemical Products	9 Jan 2002	15 Mar 2002	
Regulations on Imposing Administrative Penalties related to Certification and Accreditation	9 Dec 2003	9 Dec 2003	
Special Regulations of the State Council on Strengthening the Supervision and Administration the Safety of Food and Other Products	26 July 2007	26 Jul 2007	
Agricultural Products Quality Safety Law	29.04.2006	1 Nov 2006	
Intellectual property rights			
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 (IP/N/1/CHN/C/3)	2 Aug 2002[a]	15 Sept 2002	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)	2 Aug 2002[a]	15 Sept 2002	
Patent Law (IP/N/1/CHN/I/1)	25 Aug 2000	1 July 2001	12 Mar 1984
Regulations for Implementation of the Patent Law (IP/N/1/CHN/I/3)	28 Dec 2002[a]	1 Feb 2003	
Regulations on Computer Software Protection (IP/N/1/CHN/C/2/Rev.1)	20 Dec 2001[a]	1 Jan 2002	
Regulations on the Protection of Layout-Design of Integrated Circuits (IP/N/1/CHN/L/1/Rev.1)	28 Mar 2001	1 Oct 2001	
Regulations on Protection of New Varieties of Plants (IP/N/1/CHN/P/1)	20 Mar 1997	1 Oct 1997	
Regulations on the Administration of Technology Import and Export	31 Oct 2001	1 Jan 2002	
Tax regime			
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	26 Nov 1993	1 Jan 1994	
Interim Regulations on Consumption Tax	26 Nov 1993	1 Jan 1994	
Interim Regulations on Business Tax	26 Nov 1993	1 Jan 1994	
Interim Regulations on Land Appreciation Tax	26 Nov 1993	1 Jan 1994	
Interim Regulations on Resources Tax	26 Nov 1993	1 Jan 1994	
Law on Income Tax for Enterprises	16 Mar 2007	1 Jan 2008	
Income Tax Law for Individuals	29 June 2007	29 June 2007	10 Sept 1980
Regulation for the Implementation of the Enterprise Tax Law	28 Nov 2007	1 Jan 2008	
Sectoral laws			
Agriculture			
Agricultural Law	28 Dec 2002	1 Mar 2003	2 July 1993
Law on Land Contract in Rural Areas	29 Aug 2002	1 Mar 2003	
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	29 Apr 1998	1 July 1998	20 Sept 1984
Law on Prompting Agricultural Mechanization	25 June 2004	1 Nov 2004	
Regulations on Management to Grain circulation	19 May 2004	26 May 2004	
Regulations on the Management to Central Grain Reserves	6 Aug 2003	15 Aug 2003	
Manufacturing			
Law on Tobacco Monopoly	29 June 1991	1 Jan 1992	
Pharmaceutical Administration Law	28 Feb 2001	1 Dec 2001	20 Sept 1984
Steel Industry Development Policy	20 July 2005	20 July 2005	
Industrial Policy for the Automobile Industry	21 May 2004	1 June 2004	19 Feb 1994
Automobile Trade Policy	10 Aug 2005	10 Aug 2005	
Administrative Regulations on Recalls of Defective Automobile Products	15 Mar 2004	1 Oct 2004	

Table AII.1 (cont'd)

Legislation (comment)	Adoption of latest amendment	Entry into effect	Date of first adoption
Energy, utilities and natural resources			
Mineral Resources Law	29 Aug 1996	29 Aug 1996	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	23 Sept 2001	23 Sept 2001	30 Jan 1982
Regulations on Exploitation of On-shore Petroleum Resources in Cooperation with Foreign Enterprises	23 Sept 2001	23 Sept 2001	7 Oct 1993
Provisional Measures for Administration of the Market of Processed Oil	1 Jan 2005	1 Jan 2005	
Law on the Administration of the Use of Sea Areas	27 Oct 2001	1 Jan 2002	
Law on Water and Soil Conservation	29 June 1991	29 June 1991	
Law on Conserving Energy	1 Nov 1997	1 Jan 1998	
Mineral Resources Law	29 Aug 1996	1 Jan 1997	19 Mar 1986
Law on Coal Industry	29 Aug 1996	1 Dec 1996	
Electric Power Law	28 Dec 1995	1 Apr 1996	
Regulations for Administration of Electricity Industry	2 Feb 2005	1 May 2005	
Laws on Conserving Energy	28 Oct 2007	1 April 2008	
Regulations on Exploitation of On-shore Petroleum Resources in Cooperation with Foreign Enterprises	18 Sep 2007	18 Sep 2007	7 Oct 1993
Financial services			
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	28 Oct 2003	1 June 2004	
Regulations on Closure of Financial Institutions	23 Nov 2001	15 Dec 2001	
Regulations on Administration of Foreign-funded Financial Institutions	12 Dec 2001	1 Feb 2002	
Insurance Law	28 Oct 2002	1 Jan 2003	30 June 1995
Regulations on Administration of Foreign-funded Insurance Companies	5 Dec 2001	1 Feb 2002	
Trust Law	28 Apr 2001	1 Oct 2001	
Securities Law	27 Oct 2005	1 Jan 2006	29 Dec 1998
Rules on the Establishment of Foreign-shared Fund Management Companies	1 June 2002[a]	1 July 2002	
Rules for the Establishment of Foreign-shared Securities Companies	1 June 2002[a]	1 July 2002	
Provisions of the State Council on Foreign Capital Stocks Listed in China by Joint Stock Limited Companies	2 Nov 1995	25 Dec 1995	
Auction Law	28 Aug 2004	28 Aug 2004	5 July 1996
Guaranty Law	30 June 1995	1 Oct 1995	
Regulation on the Administration of Futures Trading	7 Feb 2007	15 April 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 April 2008	15 May 1996
Other services			
Accounting Law	31 Oct 1999	1 July 2000	21 Jan 1985
Law on Certified Public Accountants	31 Oct 1993	1 Jan 1994	
Regulations on Telecommunications (Telecommunications Decree)	20 Sept 2000	25 Sept 2000	
Provisions on the Administration of Telecommunications Enterprises with Foreign Investment	5 Dec 2001	1 Jan 2002	
Highway Law	28 Aug 2004	28 Aug 2004	30 July 1997
Regulations on Road Transportation	14 Apr 2004	1 July 2004	
Provisions on the Administration of Road Transport Services with Foreign Investment	20 Nov 2001[a]	20 Nov 2001	
Railway Law	7 Sept 1990	1 May 1991	
Maritime Code	7 Nov 1992	1 July 1993	
Regulations on International Maritime Transportation	5 Dec 2001	1 Jan 2002	
Implementing Rules of Regulations on International Maritime Transportation	25 Dec 2002	1 Mar 2003	
Special Maritime Procedure Law	25 Dec 1999	1 July 2000	

Table AII.1 (cont'd)

Legislation (comment)	Adoption of latest amendment	Entry into effect	Date of first adoption
Provisions on Administration of Foreign Investment in International Maritime Transportation	2 Mar 2004[a]	1 June 2004	
Regulations on Administration of Pilotage	12 Oct 2001	1 Jan 2002	
Port Law	28 June 2003	1 Jan 2004	
Regulations on Administration of Port Operation	26 Dec 2003	1 June 2004	
Regulations on Port Facility Security	14 Nov 2003	14 Nov 2003	
Civil Aviation Law	30 Oct 1995	1 Mar 1996	
Regulations of Restriction for Universal Aviation	10 Jan 2003	1 May 2003	
Postal Law	2 Dec 1986	1 Jan 1987	
Law on Licensed Doctors	26 June 1998	1 May 1999	
Higher Education Law	29 Aug 1998	1 Jan 1999	
Education Law	18 Mar 1995	1 Sept 1995	
Compulsory Education Law	12 Apr 1986	1 July 1986	
Vocational Education Law	15 May 1996	1 Sept 1996	
Law on Promotion of Privately-run Schools	28 Dec 2002	1 Sept 2003	
Regulations on Sino-Foreign Cooperative Education	19 Feb 2003	1 Sept 2003	
Construction Law	1 Nov 1997	1 Mar 1998	
Regulations on Foreign-invested Construction Design Enterprises	27 Sept 2002[a]	1 Dec 2002	
Law on Urban Real Estate	30 Aug 2007	30 Aug 2007	1 Jan 1995
Regulations on Construction Enterprises with Foreign Investment	27 Sept 2002[a]	1 Dec 2002	
Regulations on Property Management	28 May 2003	1 Sept 2003	
Advertisement Law	27 Oct 1994	1 Feb 1995	
Rules on Administration of Foreign-invested Advertising Enterprises	2 Mar 2004[a]	2 Mar 2004	
Regulations on Administration of Travel Agencies	11 Dec 2001[a]	1 Jan 2002	
Regulations on Administration of Tourist Guides	14 May 1999[a]	1 Oct 1999	
Provisional Rules on the Establishment of Travel Agencies with Majority Foreign Equity and Solely Foreign Investment	12 June 2003[a]	12 July 2003	
Law on Entry and Exit of Aliens	22 Nov 1985	1 Feb 1986	
Regulations on Administration of Foreign Law Firms' Representative Offices in China		1 Jan 2002	22 Dec 2001
Provision of the Ministry of Justice on the implementation of Regulations on Administration of Foreign Law Firms' Representative Offices in China	2 Sep 2004	2 Sep 2004	4 July 2002
Others			
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	
Criminal Procedure Law	17 Mar 1996	1 Jan 1997	1 July 1979
Civil Procedure Law	28 Oct 2007	1 April 2008	1 Oct 1982
Administrative Procedure Law	4 Apr 1989	1 Oct 1990	
Law on the Procedure of the Conclusion of Treaties	28 Dec 1990	28 Dec 1990	
Legislation Law	15 Mar 2000	1 July 2000	
Regulations on Procedures for the Formulation of Administrative Regulations	16 Nov 2001[a]	1 Jan 2002	
Employment Promotion Law	30 Aug 2007	1 Jan 2008	
Anti-monopoly Law	30 Aug 2007	1 Aug 2008	
Labour Contract Law	29 Jun 2007	1 Jan 2008	
Property Law	16 Mar 2007	1 Oct 2007	
Provisions on the Administrative Punishment of Price-related Violations	9 Jan 2008	9 Jan 2008	10 Jul 1999
Regulation on Disclosure of Government Information	17 Jan 2008	1 May 2008	
Regulations on Procedures for the Formulation of Rules	16 Nov 2001[a]	1 Jan 2002	
Regulations on Submission of Regulations and Rules for the Record	14 Dec 2001[a]	1 Jan 2002	

Table AII.1 (cont'd)

Legislation (comment)	**Adoption of latest amendment**	**Entry into effect**	**Date of first adoption**
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	2 Sept 1993	1 Dec 1993	
Provisions of the State Council on Prohibiting of Imposition of Regional Blockage on Market Economic Activities	21 Apr 2001	21 Apr 2001	
Notice on Cleaning up Local Protectionism in Market Economy Activities (issuing authorities: MOFCOM, Ministry of Supervision, LAOSC, MOF, Ministry of Communications, SAT, AQSIQ)	18 June 2004	18 June 2004	
Administrative Permission Law	27 Aug 2003	1 July 2004	
Judges Law	30 June 2001	30 June 2001	28 Feb 1995
Labour Law	5 July 1994	1 Jan 1995	
Law on Administrative Reconsideration	29 Apr 1999	1 Oct 1999	
Company Law	27 Oct 2005	1 Jan 2006	29 Dec 1993
Pricing Law	29 Dec 1997	1 May 1998	
Regulation on Government Pricing	26 Dec 2001	1 Feb 2002	
Interim Provisions on Preventing the Acts of Price Monopoly	18 June 2003	1 Nov 2003	
Regulations on the Administration of Company Registration	18 Dec 2005	1 Jan 2006	
Law on the Protection of Consumer Rights and Interests	31 Oct 1993	1 Jan 1994	
Law on Enterprise Bankruptcy (Trial Implementation)	27 Aug 2006	1 Jan 2007	
Law on Industrial Enterprises Owned by the Whole People	13 Apr 1988	1 Aug 1988	
Law on Individual Proprietorship Enterprises	30 Aug 1999	1 Jan 2000	
Administrative Rules Governing the Registration of Individual Proprietorship Enterprises	13 Jan 2000[a]	13 Jan 2000	
Law on Partnership Enterprises	27 Aug 2006	1 June 2007	
Administrative Regulations Governing the Registration of Partnership Enterprises	9 May 2007	1 June 2007	19 Nov 1997
Law on Promotion of Small and Medium-Sized Enterprises	29 June 2002	1 Jan 2003	
Law on Township Enterprises	29 Oct 1996	1 Jan 1997	
Provisions on the Merger and Division of Enterprises with Foreign Investment	22 Nov 2001[a]	22 Nov 2001	23 Sept 1999
Law on Bid Invitation and Bidding	30 Aug 1999	1 Jan 2000	
Rules for the Administration of Employment of Foreigners in China	22 Jan 1996	1 May 1996	
Administrative Regulations Governing The Registration of Legal Corporations	3 June 1988[a]	1 July 1988	
Code of Corporate Governance for Listed Companies	9 Jan 2002	9 Jan 2002	
Several Opinions on Promoting the Reform, Opening and Steady Development of the Capital Market – State Council	31 Jan 2004	1 Feb 2004	
Contract Law	15 Mar 1999	1 Oct 1999	
Interim Regulations on Supervision and Management of Corporate State-owned Assets	13 May 2003	27 May 2003	
Provisional Measures on Transfer of State-Owned Property Rights in Enterprises	8 Jan 2004	1 Feb 2004	
Government Procurement Law of China	29 June 2002	1 Jan 2003	
Environmental Protection Law	26 Dec 1989	26 Dec 1989	
Law on Evaluation of Environmental Effects	28 Oct 2002	1 Sept 2003	
Marine Environment Protection Law	25 Dec 1999	1 Apr 2000	23 Aug 1982
Regulations on Administration of Collection and Utilization of Sewage Discharge Levies	2 Jan 2003[a]	1 July 2003	
Trade Union Law	27 Oct 2001	27 Oct 2001	
Civil Procedure Law	28 Oct 2007	1 April 2008	1 Oct 1982

a Date of promulgation.

Source: Ministry of Commerce, China.

Table AII.2
Principal notifications under WTO Agreements, as at 12 February 2008

Agreement	Requirement/content	Document symbol and date of latest notification
Agreement on Agriculture		
Articles 10 and 18.2	Table ES.1 – Export subsidies	G/AG/N/CHN/12, 14/09/2007
Article 18.2	Table MA.2 – Tariffs and other quotas	G/AG/N/CHN/11, 14/09/2007
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/8, 31/03/2006
Enabling clause – integration		
Enabling clause	Framework agreement on comprehensive economic cooperation between ASEAN and China	WT/COMTD/N/20/Add.1, 26/09/2005
	China's accession to the Bangkok Agreement	WT/COMTD/N/19, 29/07/2004
	Amendment to the Bangkok Agreement	WT/COMTD/N/22, 27/07/2007
Agreement on Implementation of GATT Article VI of the GATT 1994 (Anti-dumping)		
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/158/CHN, 02/10/2007
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
Agreement on Implementation of Article VII of the GATT 1994 (Customs valuation)		
Article 22.2	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
General Agreement on Tariffs and Trade (GATT) 1994		
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 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

Table AII.2 (cont'd)

Agreement	Requirement/content	Document symbol and date of latest notification
General Agreement on Trade in Services		
Article III:3	Significant changes	No notifications in 2004, 2005, 2006, and 2007
	Notifications in 2003 = 24 Notifications in 2002 = 18	S/C/N/238-261 S/C/N/208-225
Article III:4 and IV:2	Contact and enquiry points	S/ENQ/78/Rev.9, 01/12/2006
Article V:7 (a) of GATS and Article XXIV: 7(a) of the GATT 1994	Closer economic partnership arrangement between China and Hong Kong, China	S/C/N/264 WT/REG162/N/1, 12/01/2004
	Closer economic partnership arrangement between China and Macao, China	S/C/N/265 WT/REG163/N/1, 12/01/2004
Paragraph 14 of the Transparency Mechanism for Regional Trade Agreements (WT/L/671) and Article V:7 (a) of GATS	Supplement IV to the Closer economic partnership agreements between China and Hong Kong, China and between China and Macao, China	WT/REG162/N/1/Add.1 S/C/N/264/Add.1, 21/12/2007 WT/REG163/N/1/Add.1 S/C/N/265/Add.1, 21/12/2007
Article VII: 4	Existing Article VII:1 recognition measures	None
Agreement on Preshipment Inspection		
Article 5	Notification of laws and regulations related to the Agreement	None
Agreement on Import Licensing Procedures		
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/4, 17/01/2005, G/LIC/N/1/CHN/5, 20/03/2006
Article 7.3	Replies to questionnaire on import licensing procedures	G/LIC/N/3/CHN/6, 08/10/2007
Quantitative Restrictions		
QR - (G/L/59) - biennial	Notification of quantitative restrictions	G/MA/NTM/QR/1/Add.10, 28/03/2006
Agreement on Rules of Origin		
Article 5 and Paragraph 4 of Annex II	Preferential rules of origin	G/RO/N/37/Rev.1, 02/08/2002
Agreement on Safeguards		
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
Agreement on the Application of Sanitary and Phytosanitary Measures		
Article 7 and Annex B	Enquiry points	G/SPS/ENQ/19, 25/01/2006

Table AII.2 (cont'd)

Agreement	Requirement/content	Document symbol and date of latest notification
Article 7 and Annex B	Notifications in 2008 = 1 Notifications in 2007 = 4 Notifications in 2006 = 4 Notifications in 2005 = 15	G/SPS/N/CHN/104 G/SPS/N/CHN/100-103 G/SPS/N/CHN/96-99 G/SPS/N/CHN/81-95
Agreement on Subsidies and Countervailing Measures		
Article 25.1	Notification of subsidies	G/SCM/N/123/CHN, 13/04/2006
Article 25.11	Semi-annual report on countervailing duty actions	G/SCM/N/162/Add.1/Rev.1, 15/11/2007
Article 32.6	Notification of the newly 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/167, 17/10/2007
Agreement on Technical Barriers to Trade (TBT)		
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/62, 19/11/2004
Article 2.9	Notification of technical regulations: Notifications in 2007 = 90 Notifications in 2006 = 63 Notifications in 2005 = 112	 G/TBT/N/CHN/239-328 G/TBT/N/CHN/176-238 G/TBT/N/CHN/64-175
Article 5.6	Notification of products covered by conformity assessment procedure	G/TBT/N/CHN/278-290, 27/08/2007 G/TBT/N/CHN/291-292, 01/10/2007
Article 5.7	Notification of regulations issued to protect the environment	G/TBT/N/CHN/56-58, 14/07/2004
Agreement on Trade-Related Aspects of Intellectual Property Rights		
Article 63.2	Amending the Rules for the Implementation of the Patent Law	IP/N/1/CHN/I/3, 13/10/2003
	Regulations for the Implementation of the Trademark Law	IP/N/1/CHN/T/2, 13/10/2003 IP/N/1/CHN/T/1, 08/07/2002
	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
Agreement on Trade-Related Investment Measures		
Article 6.2	Publications	G/TRIMS/N/2/Rev.9/Add.5, 13/06/2002
Information on Implementation and Administration of the Agreement on Customs Valuation		
Decision on the checklist of issues	Checklist of issues	G/VAL/N/2/CHN/1, 05/07/2002

Source: WTO documents.

Table AII.3
Involvement in the WTO dispute settlement mechanism, March 2008

Dispute	Complainant (WTO document)	Request for consultation	Panel established	Panel report circulated
China as defendant				
Measures affecting imports of automobile parts	European Communities (WT/DS339/1)	30/03/2006	26/10/2006	
Measures affecting imports of automobile parts	United States (WT/DS340/1)	30/03/2006	26/10/2006	
Measures affecting imports of automobile parts	Canada (WT/DS342/1)	13/04/2006	26/10/2006	
Certain measures granting refunds, reductions or exemptions from taxes and other payments[a]	United States (WT/DS358/1)	02/02/2007	31/08/2007	
Certain measures granting refunds, reductions or exemptions from taxes and other payments[b]	Mexico (WT/DS359/1)	26/02/2007	31/08/2007	
Measures affecting the protection and enforcement of intellectual property rights	United States (WT/DS362/1)	10/04/2007	25/09/2007	
Measures affecting trading rights and distribution services for certain publications and audiovisual entertainment products	United States (WT/DS363/1)	10/04/2007	27/11/2007	
Measures affecting financial information services and foreign financial information suppliers	European Communities (WT/DS372/1)	03/03/2008		
Measures affecting financial information services and foreign financial information suppliers	United States (WT/DS373/1)	03/03/2008		
China as complaint				
Preliminary anti-dumping and countervailing duty determinations on coated free sheet paper from China	(WT/DS368/1)	14/09/2007		
China as a third party				
Brazil — Measures affecting imports of retreaded tyres	European Communities (WT/DS332/1)	20/06/2005	20/01/2006	12/06/2007
Turkey — Measures affecting the importation of rice	United States (WT/DS334/1)	02/11/2005	17/03/2006	21/09/2007
United States — Anti-dumping measure on shrimp from Ecuador	Ecuador (WT/DS335/1)	17/11/2005	19/07/2006	
Japan — Countervailing duties on dynamic random access memories from Korea	Korea (WT/DS336/1)	14/03/2006	19/06/2006	13/07/2007
European Communities — Anti-dumping measure on farmed salmon from Norway	Norway (WT/DS337/1)	17/03/2006	22/06/2006	
Mexico — Definitive countervailing measures on olive oil from the European Communities	European Communities (WT/DS341/1)	31/03/2006	23/01/2007	
United States — Measures relating to shrimp from Thailand	Thailand (WT/DS343/1)	24/04/2006	26/10/2006	
United States — Final anti-dumping measures on stainless steel from Mexico	Mexico (WT/DS344/1)	26/05/2006	26/10/2006	
United States — Customs bond directive for merchandise subject to anti-dumping/countervailing duties	India (WT/DS345/1)	06/06/2006	21/11/2006	
European Communities and certain member States — Measures affecting trade in large civil aircraft (second complaint)[c]	United States (WT/DS347/1)	31/01/2006	09/05/2006	
United States — Continued existence and application of zeroing methodology	European Communities (WT/DS350/1)	02/10/2006	04/06/2007	
United States — Measures affecting trade in large civil aircraft — second complaint	European Communities (WT/DS353/1)	27/06/2005	17/02/2006	

Table AII.3 (cont'd)

Dispute	**Complainant (WTO document)**	**Request for consultation**	**Panel established**	**Panel report circulated**
United States – Subsidies and other domestic support for corn and other agricultural products	Canada (WT/DS357/1)	08/01/2007	17/12/2007	
United States – Domestic support and export credit guarantees for agricultural products	Brazil (WT/DS365/1)	11/07/2007	17/12/2007	
Colombia – Indicative prices and restrictions on ports of entry	Panama (WT/DS366/1)	12/07/2007	22/10/2007	

a On 19 December 2007, the United States and China informed the DSB of an agreement in the form of a MOU.
b On 7 February 2007, Mexico and China informed the DSB of an agreement in the form of a MOU.
c On 9 October 2006, the Chairman of the Panel informed the DSB that the United States had requested the Panel on 6 October 2006 to suspend its work, in accordance with Article 12.12 of the DSU. The Panel had agreed to this request. The authority for the establishment of the panel lapsed as of 7 October 2007.

Source: WTO Secretariat.

Table AIII.1
Inward duty, 2007
(Per cent)

Article description	Reasonable amount (per person)[a]	Duty (%)
Books, newspapers, journals; movies (copies for educational purposes); slides; cassettes, video cassettes; gold, silver, or articles thereof; food, beverages; and articles other than:	Books, newspapers, journals: 10 units, or 3 sets CDs, and DVDs: 20 units, or 3 sets	10
textiles and textile products; camcorders, cameras, video cameras/recorders, digital cameras, and other electrical appliances; bicycles; watches; clocks (including components and accessories); and cosmetics	..	20
golf balls and other golf equipment, luxury watches	..	30
tobacco products and wines	...	50

.. Not available.

a The Administration Regulation on the Imports and Exports of Printed Materials and Audio/Video Products, Customs Order No. 161, 2007, effective 1 June 2007

Note: Customs registration and examination is required in order to import contraceptive instruments and contraceptive medicines above the "reasonable self-using level" set by customs regulations.

Source: China's Tariff Schedule 2007.

Table AIII.2
Imports allocated to state-trading enterprises, 2005-07

Product	HS Code	Per cent of import quota		
		2005	2006	2007
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; 11023010; 11023090; 11031921; 11031929	50	50	50
Sugar	17011100; 17011200; 17019100; 17019910; 17019920; 17019990	70	70	70
Rapeseed oil	15141100; 15141900; 15149110; 15149190; 15149900	10	None[a]	None[a]
Soybean oil	15071000; 15079000	10	None[a]	None[a]
Palm oil	15111000; 15119010; 15119090	10	None[a]	None[a]
Cotton	52010000; 52030000	33	33	33
Urea	31021000	90	90	90
NPK	31052000	70	65	65
Diammonium phosphate	31053000	70	65	65
Other chemical fertilizers[b]	31022100; 31022900; 31023000; 31024000; 31025000; 31026000; 31027000; 31028000; 31029000; 31031000; 31032000; 31039000; 31041000; 31042010; 31042090; 31043000 31049000; 31051000; 31054000; 31055100; 31055900; 31056000; 31059000	100	100	100
Tobacco[b]	55020010; 56012210; 24011010; 24011090; 24012010; 24012090; 24013000; 24021000; 24022000; 24029000; 24031000; 24039100; 24039900; 48131000; 48132000; 48139000; 84781000; 84789000	100	100	..
Crude oil[b]	27090000	90[c]	90[d]	..
Processed oil[b]	27101110; 27101120; 27101191; 27101911; 27101912; 27101921; 27101929; 27101922	77.7[e]	77.87[f]	..

.. Not available.

a State trading/tariff rate quota abolished.
b Imports subject to automatic licensing.
c STE share 114.22 m tonnes.
d STE share 130.68 m tonnes.
e STE share 24.43 m tonnes.
f STE share 28.33 m tonnes.

Source: Information provided by the authorities.

Table AIII.3
Export quotas allocated to state-trading enterprises, 2005-06
(Tonnes)

Product (HS code)	Year	Enterprises
Rice		
10061011; 10061019; 10061091; 10061099; 10062010; 10062090; 10063010; 10063090; 10064010; 10064090	2005	China National Cereals, Oil and Foodstuffs Import & Export Co.; and Jilin Grain Group Import & Export Co. Ltd.
	2006	China National Cereals, Oil and Foodstuffs Import & Export Co.; and Jilin Grain Group Import & Export Co. Ltd.
Maize		
10051000; 10059000; 11042300	2005	China National Cereals, Oil and Foodstuffs Import & Export Co.; and Jilin Grain Group Import & Export Co. Ltd.
	2006	China National Cereals, Oil and Foodstuffs Import & Export Co.; and Jilin Grain Group Import & Export Co. Ltd.
Cotton		
52010000; 52030000	2005	Chinatex Cotton Import and Export Co.; 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
	2006	Chinatex Cotton Import and Export Co.; 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
Coal		
27011100; 27011210; 27011290; 27011900; 27021000	2005	China National Coal Group Corporation; Shanxi Coal Import and Export Group Corporation; Shenhua Group Corporation Ltd.; and China Metals and Minerals Import and Export Co.
	2006	China National Coal Group Corporation; Shanxi Coal Import and Export Group Corporation; Shenhua Group Corporation Ltd.; and China Metals and Minerals Import and Export Co.
Crude oil		
27090000	2005	SINOCHEM Corporation; China Petroleum and Chemical (SINOPEC) Corporation; and China National Petroleum Corporation
	2006	SINOCHEM Corporation; China Petroleum and Chemical (SINOPEC) Corporation; and China National Petroleum Corporation
Processed oil		
27101110; 27101120; 27101191; 27101199; 27101911; 27101912; 27101919; 27101921; 27101929; 27101991; 27101992; 27101993; 27111100	2005	SINOCHEM Corp.; China Petroleum and Chemical (SINOPEC) Corporation; and China National Petroleum Corporation
	2006	SINOCHEM Corp.; China Petroleum and Chemical (SINOPEC) Corporation; and China National Petroleum Corporation
Tungsten ore and products		
26110000; 26209910; 28418010; 28418040; 28259012; 28259019; 28259011; 28418020; 28418030; 28499020; 81011000; 81019400; 81019700	2005	STEs listed in MOFCOM Announcement No. 93 of 2004 (http://www.mofcom.gov.cn/aarticle/b/c/200412/20041200319936.html)
	2006	STEs listed in MOFCOM Announcement No.107 of 2005 (http://www.mofcom.gov.cn/aarticle/b/c/200512/20051201052020.html)
Antimony ore and products		
26171010; 26171090; 28258000; 81101010; 81101020; 81102000; 81109000	2005	STEs listed in MOFCOM Announcement No. 93 of 2004 (http://www.mofcom.gov.cn/aarticle/b/c/200412/20041200319936.html)
	2006	STEs listed in MOFCOM Announcement No.107 of 2005 (http://www.mofcom.gov.cn/aarticle/b/c/200512/20051201052020.html)

Table AIII.3 (cont'd)

Product (HS code)	Year	Enterprises
Silver		
71061000; 71069110; 71069190; 71069210; 71069290	2005	STEs listed in MOFCOM Announcement No. 93 of 2004 (http://www.mofcom.gov.cn/aarticle/b/c/200412/20041200319936.html)
	2006	STEs listed in MOFCOM Announcement No.107 of 2005 (http://www.mofcom.gov.cn/aarticle/b/c/200512/20051201052020.html)
Tobacco		
55020010; 24011010; 24011090; 24012010; 24012090; 24013000; 24021000; 24022000; 24029000; 24031000; 24039100; 24039900; 48131000; 48132000; 48139000; 56012210; 84781000; 84789000	2005	STEs listed in MOFTEC Announcement No. 44 of 2001 (http://www.mofcom.gov.cn/aarticle/b/c/200404/20040400210082.html)
	2006	STEs listed in MOFTEC Announcement No. 44 of 2001 (http://www.mofcom.gov.cn/aarticle/b/c/200404/20040400210082.html)

Note: Quotas for 2007 were allocated to the same enterprises as in 2006. However, the quota amount was not specified to the Secretariat.

Source: Information provided by authorities.

Table AIII.4
Tax revenues allocated to different levels of government: central, local, and shared taxes, 2007

Collected by	Taxes
Centre	Customs duties; excise taxes (including on imports); VAT on imports; enterprise income tax of enterprises subordinate to the Central Government[a]; enterprise income tax of foreign-invested banks, and non-bank financial institutions; business tax, and city maintenance and construction tax[b], paid by the railway department, and the headquarters of various banks and insurance companies; vehicle purchase tax; vessel tonnage tax; and resource tax on ocean petroleum resources
Local	Tobacco leaf tax[c]; business tax (excluding those assigned to the Central Government); income tax of enterprises subordinated to local governments; city and township land use tax[d]; fixed assets investment orientation tax; city maintenance and construction tax[b] (excluding those assigned to the Central Government); urban real estate tax, and house property tax[b]; vehicle and vessel usage tax, and vehicle and vessel licence tax[e]; stamp tax; farmland occupation tax[b], deed tax, land appreciation tax, and land use tax; resources tax (except for oceanic petroleum resources tax, which goes to the Centre)
Shared	VAT levied on domestically produced goods and services (75% for the Central Government and 25% for local governments), enterprise income tax (60% for the Central Government and 40% for local governments), individual income tax (60% for the Central Government and 40% for local governments), and stamp tax on securities transactions[f] (97% for the Central Government and 3% for local governments)

a Enterprise income tax revenues from railway departments, national post, the Industry and Commerce Bank of China, the Agriculture Bank of China, the Bank of China, the Construction Bank of China, the China Development Bank, the Agriculture Development Bank of China, the Export-Import Bank of China, and oceanic petroleum and natural gas enterprises, as well as by foreign-invested banks and non-bank financial institutions, are assigned to the Central Government.
Enterprise income tax revenues of other enterprise are shared 60:40 by central and local governments.

b FIEs are not levied the city maintenance and construction tax. FIEs are levied the urban real estate tax, while domestic enterprises are levied the house property tax. Before 2008, FIEs were not levied the farmland occupation tax; however, as of 1 January 2008, FIEs are also levied this tax due to the revision of the Interim Regulation of the Farmland Occupation Tax.

c Special agriculture tax (apart from tobacco leaf tax) was removed in 2004, animal husbandry tax was removed in 2005. Agriculture tax and slaughter tax were both removed in 2006.

d As of 1 January 2007, the city and township land use tax, which had been levied only on domestic enterprises and individuals, is levied on all enterprises (including FIEs) and individuals using land in China. The tax per unit of land was also adjusted, and the "land use charge" on FIEs and individuals was removed.

e Vehicle and vessel usage tax used to be applied to domestic enterprises and individuals, and vehicle and vessel licence tax to foreign enterprises and individuals; on 1 January 2007, the two taxes were unified into vehicle and vessel tax, levied on both domestic and foreign enterprises, individuals, or organizations.

f The rate of stamp tax on securities transactions increased from 0.1% to 0.3% on 30 May 2007.

Source: Information provided by the authorities.

Table AIII.5
Special economic and other zones, 2006

Zones	2006
Special economic zones (SEZs)[a]	5
Shanghai Pudong New Area	1
Coastal open cities	14
Coastal open areas	260
Open cities along the Yangtze River	6
Capital cities of interior provinces	18
Border cities	12
Three Gorges of Yangtze River Economic Zone	17
Development zones approved by the Central Government	222
Economic and technological development zones (ETDZs)[b]	49
High tech industrial development zones (HIDZs)	53
Free-trade zones (FTZs)	15
Export processing zones (EPZs)	58
Border economic cooperative areas (BECAs)	14
Other development zones (including bonded logistic areas and tourism areas)	33
Development zones approved by local governments	1,346

a The five SEZs are: Shenzhen, Zhuhai, Shantou, Xiamen, Hainan.
b Suzhou Industrial Park, Shanghai Jinqiao Export Processing Zone, Ningbo Daxie ETDZ, Xiamen Haicang Investment Zone, and Hainan Yangpu Opening Area, although not listed in the 49 ETDZs, are also subject to preferential taxes given to ETDZs.

Source: China Development Zones online information. Viewed at: http://www.cadz.org.cn/ [18 July 2007]; NDRC Announcement (2007 No. 18), Catalogue of China Development Zones 2006; and WTO document G/SCM/N/123/CHN, 13 April 2006.

Table AIII.6
Selected competition-related legislation, 2007

Legislation	Entry into effect (of last amendment)	Competition-related issues
Law Countering Unfair Competition	1 December 1993	Collusive tendering, predatory pricing, abuse of a market-controlling position by public enterprises, administrative monopoly, and tied selling
Advertisement Law	1 February 1995	Using false information, cheating, and misleading consumers to distort competition
Price Law	1 May 1998	Price-fixing cartels, predatory or exploitative pricing, and price discrimination
Law on Bid Invitation and Bidding or Tendering	1 January 2000	Collusive tendering
Patent Law	1 July 2001	Patent abuse to exclude or restrict competition
Commercial Banking Law	1 February 2004	"Improper competition" of banks
Foreign Trade Law	1 July 2004	Monopolistic conduct and the sale of products at unreasonably low prices in foreign trade
Rules on Prohibiting Public Utility Companies from Restricting Competition	24 December 1993	Abuse of monopoly positions by public utility companies
Regulations on Telecommunication	25 September 2000	Division of functions of government and enterprises, breaking of monopolies, promoting transparency
Rules on Prohibiting Regional Blockages in Market Economic Activities	21 April 2001	Administrative monopoly behaviours of local governments
Provisions on Prohibition of Implementation of Regional Blockage to Cigarette Business	1 June 2001	Regional blockage
Provisional Rules on Prevention of Monopoly Pricing	1 November 2003	Abuse of monopoly positions, and price coordination, supply restriction, bid-rigging, vertical price restraint, below-cost pricing, price discrimination, and government interference in market price determinations.
Rules on Acquisitions of Domestic Enterprises by Foreign Investors, and the Guidelines on Anti-monopoly Filing	8 September 2006	Pre-merger notifications to MOFCOM and SAIC required under certain conditions

Source: Bruce M. Owen, Sun Su, and Wentong Zheng (2007), "China's Competition Policy Reforms: The Antimonopoly Law and Beyond", John M. Olin Programme in Law and Economics, Stanford Law School, Working Paper No. 339, April; and various Government internet sites (in Chinese only).

Table AIII.7
China's membership of international intellectual property rights conventions, 2007

Convention	Date of accession
Berne Convention for the Protection of Literary and Artistic Works	1992
Budapest Treaty on the International Recognition of the Deposit of Micro-Organisms for the Purposes of Patent Procedures	1995
Convention Establishing WIPO	1980
Convention for the Protection of Producers of Phonographs Against Unauthorized Duplication of their Phonograms	1993
International Convention for the Protection of New Varieties of Plants	1999
Locarno Agreement Establishing an International Classification for International Design	1996
Madrid Agreement Concerning International Registration of Marks	1989
Nice Agreement Concerning the International Classification of Goods and Services for the Purpose of the Registration of Marks	1994
Paris Convention for the Protection of Industrial Property	1985
Patent Co-operation Treaty	1994
Protocol Relating to the Madrid Agreement concerning the International Registration of Marks	1995
Strasbourg Agreement Concerning International Patent Classification	1997
Treaty on Intellectual Property in Respect of Integrated Circuits	1989
Universal Copyright Convention	1992
WIPO Copyright Treaty	2007
WIPO Performances and Phonograms Treaty	2007

Source: Information provided by the authorities.

Table AIII.8
Patent and trade mark statistics, 2004-06

	2004	2005	2006
Patent (invention) applications	130,133	173,327	210,490
Domestic	65,786	93,485	122,318
Foreign	64,347	79,842	88,172
Patents (invention) approved	49,360	53,305	57,786
Domestic	18,241	20,705	25,077
Foreign	31,119	32,600	32,709
Trade mark applications	587,925	664,017	766,319
Domestic	527,591	593,382	669,276
Foreign	60,334	70,635	97,043
Trade marks approved	266,619	258,532	275,641
Domestic	225,394	218,731	228,814
Foreign	41,225	39,801	46,827

Source: Data provided by the authorities.

Table AIII.9
Intellectual property rights cases dealt with by courts, 2006

	2006
First instance civil IPR cases accepted	14,219
First instance civil IPR cases closed	14,056
Patent cases accepted	3,196
Patent cases closed	3,227
Copyright cases accepted	5,719
Copyright cases closed	5,751
Technical contract cases accepted	681
Technical contract cases closed	668
Unfair competition cases accepted	1,256
Unfair competition cases closed	1,188
Other IPR cases accepted	846
Other IPR cases closed	844
Second instance civil IPR cases accepted	2,686
Second instance civil IPR cases closed	2,652

Source: Data provided by the authorities.

Table AIV.1
Tariff quota utilization in China, 2004-06

		2004	2005	2006
Wheat	Quota level ('000 tonnes)	9,636.0	9,636.0	9,636.0
	Out-of-quota imports ('000 tonnes)	..	..	..
	In-quota imports ('000 tonnes)	7,260.0	354.0	610
	Utilization rate (%)	75.3	36.7	6.3
	State-trading share	90.0	90.0	90.0
	In-quota MFN tariff rate (%)	1-10	1-10	1-10
	Out-of-quota MFN tariff rate (%)	65	65	65
Corn	Quota level ('000 tonnes)	7,200.0	7,200.0	7,200.0
	Out-of-quota imports ('000 tonnes)	..	..	..
	In-quota imports ('000 tonnes)	<5	>5	7.0
	Utilization rate (%)	0.1	0.1	1.0
	State-trading share	60.0	60.0	60.0
	In-quota MFN tariff rate (%)	1-10	1-10	1-10
	Out-of-quota MFN tariff rate (%)	20-65	20-65	20-65
Rice	Quota level ('000 tonnes)	5,320.0	5,320.0	5,320
	Out-of-quota imports ('000 tonnes)	..	..	..
	In-quota imports ('000 tonnes)	770	520	729
	Utilization rate (%)	14.5	9.7	13.7
	State-trading share	50.0	50.0	50.0
	In-quota MFN tariff rate (%)	1-9	1-9	1-9
	Out-of-quota MFN tariff rate (%)	10-65	10-65	10-65
Soybean oil[a]	Quota level ('000 tonnes)	3,587.1	3,587.0	n.a.
	Out-of-quota imports ('000 tonnes)	..	..	n.a.
	In-quota imports ('000 tonnes)	2,520	1,690	n.a.
	Utilization rate (%)	80.8	47.1	n.a.
	State-trading share	18.0	10.0	n.a.
	In-quota MFN tariff rate (%)	9.0	9.0	n.a.
	Out-of-quota MFN tariff rate (%)	30.7	19.9	n.a.
Palm oil[a]	Quota level ('000 tonnes)	3,168.0	3,168	n.a.
	Out-of-quota imports ('000 tonnes)	..	..	n.a.
	In-quota imports ('000 tonnes)	2,390	2,840	n.a.
	Utilization rate (%)	88.5	89.6	n.a.
	State-trading share	..	..	n.a.
	In-quota MFN tariff rate (%)	9.0	9.0	n.a.
	Out-of-quota MFN tariff rate (%)	30.7	19.9	n.a.
Rape seed oil[a]	Quota level ('000 tonnes)	1,243.0	1,243.0	n.a.
	Out-of-quota imports ('000 tonnes)	..	..	n.a.
	In-quota imports ('000 tonnes)	350	18.0	n.a.
	Utilization rate (%)	31.1	14.5	n.a.
	State-trading share	18.0	10.0	n.a.
	In-quota MFN tariff rate (%)	9.0	9.0	n.a.
	Out-of-quota MFN tariff rate (%)	30.7	19.9	n.a.
Sugar	Quota level ('000 tonnes)	1,945.0	1,945.0	1,945
	Out-of-quota imports ('000 tonnes)	..	..	..
	In-quota imports ('000 tonnes)	1,210	1,390	1,370
	Utilization rate (%)	62.2	71.5	70.4
	State-trading share	70.0	70.0	70.0
	In-quota MFN tariff rate (%)	15.0	15.0	15
	Out-of-quota MFN tariff rate (%)	50.0	50.0	50

Table AIV.1 (cont'd)

		2004	2005	2006
Wool[b]	Quota level ('000 tonnes)	287.0	287.0	287.0
	Out-of-quota imports ('000 tonnes)	..	..	..
	In-quota imports ('000 tonnes)	220	250	280
	Utilization rate (%)	76.7	87.1	97.6
	State-trading share	n.a.	n.a.	n.a.
	In-quota MFN tariff rate (%)	1.0	1.0	1.0
	Out-of-quota MFN tariff rate (%)	38.0	38.0	38.0
Cotton	Quota level ('000 tonnes)	1,894.0	894.0	894.0
	Out-of-quota imports ('000 tonnes)	..	..	..
	In-quota imports ('000 tonnes)	1,910	2,570	894
	Utilization rate (%)	213.6	287.5	100.0
	State-trading share	33.0	33.0	33.0
	In-quota MFN tariff rate (%)	1.0	1.0	1.0
	Out-of-quota MFN tariff rate (%)	40.0	40.0	40.0
Fertilizer				
- Urea	Quota level ('000 tonnes)	2,800.0	2,800.0	3,300.0
	Out-of-quota imports ('000 tonnes)	..	..	..
	In-quota imports ('000 tonnes)	..	..	..
	Utilization rate (%)	..	..	..
	State-trading share	90.0	90.0	90.0
	In-quota MFN tariff rate (%)	4.0	4.0	4.0
	Out-of-quota MFN tariff rate (%)	50.0	50.0	50.0
- NPK	Quota level ('000 tonnes)	3,290.0	3,290.0	3,450.0
	Out-of-quota imports ('000 tonnes)	..	..	..
	In-quota imports ('000 tonnes)	..	..	..
	Utilization rate (%)	..	..	..
	State-trading share	75.0	70.0	65.0
	In-quota MFN tariff rate (%)	4.0	4.0	4.0
	Out-of-quota MFN tariff rate (%)	50.0	50.0	50.0
- Diammonium phosphate	Quota level ('000 tonnes)	6,560.0	6,560.0	6,900.0
	Out-of-quota imports ('000 tonnes)	..	..	..
	In-quota imports ('000 tonnes)	..	..	..
	Utilization rate (%)	..	..	..
	State-trading share	75.0	70.0	65.0
	In-quota MFN tariff rate (%)	4.0	4.0	4.0
	Out-of-quota MFN tariff rate (%)	50.0	50.0	50.0

.. Not available.
n.a. Not applicable.

a TRQ for oil removed in 2006.
b Non-state-trading products.

Note: Utilization rate refers to in-quota imports divided by quota level. Quota levels for cotton were increased during 2003-05.

Source: WTO documents G/AG/N/CHN/11, 14 September 2007; G/AG/N/CHN/9, 25 October 2006; G/AG/N/CHN/7, 6 April 2005, and Corr.1, 20 April 2005; G/AG/N/CHN/3, 25 September 2003; G/AG/N/CHN/1, 24 September 2002; and the Chinese authorities.

Table AIV.2
China's sector specific commitments in the GATS

Service sector	Commitments
1. BUSINESS SERVICES	
A. Professional Services	
(a) Legal services (excluding practice of Chinese law)	No market access and national treatment limitations for modes 1 and 2. Market access for mode 3 only in the form of representative offices in selected provinces. Geographical and quantitative limitations to be removed within one year after accession. There are market access limitations on the business scope provided by foreign representative offices as well as the qualifications of members of representative offices of foreign law firms. Mode 4 unbound except for horizontal commitments National treatment limitations on mode 3 including residency requirements for representative offices and restrictions on employment of Chinese national registered lawyers. Mode 4 unbound except for horizontal commitments
(b) Accounting, auditing and bookkeeping services	No market access or national treatment limitations for modes 1 and 2. For mode 3, limitations on partnerships or incorporated accounting firms, which must be certified public accountants licensed by the authorities. Mode 4 unbound except for horizontal commitments No national treatment limitations for modes 1, 2 and 3. Mode 4 unbound except for horizontal commitments Under additional commitments, China has specified the following: Foreign accounting firms are permitted to affiliate with Chinese firms and enter into contractual agreements with their affiliated firms in other WTO Members. Issuance of licences to those foreigners who have passed the Chinese national CPA examination shall be accorded national treatment. Applicants will be informed of results in writing no later than 30 days after submission of their applications. Existing contractual joint venture accounting firms are not limited only to CPAs licenced by Chinese authorities
(c) Taxation services	No market access limitations for modes 1 and 2. Mode 3 only through joint ventures with foreign majority ownership; six years after accession, wholly owned foreign subsidiaries permitted. Mode 4 unbound except for horizontal commitments No national treatment limitations for modes 1, 2 and 3. Mode 4 unbound except for horizontal commitments
(d) Architectural services (e) Engineering services (f) Integrated engineering services (g) Urban planning services (except general urban planning)	No market access limitations on mode 1 for scheme design (for others cooperation with Chinese professional organizations required). No limitations for mode 2. Mode 3 only through joint ventures with foreign majority ownership; wholly foreign owned companies to be permitted within five years of accession. Mode 4 unbound except for horizontal commitments No national treatment limitations for modes 1 and 2. For Mode 3 foreign service suppliers must be registered in their home country. Mode 4 unbound except as indicated in horizontal commitments
(h) Medical and dental services	No market access or national treatment limitations for modes 1 and 2. For market access, foreign service suppliers may establish joint-venture hospitals or clinics with Chinese partners, subject to quantitative limitations, with foreign majority ownership permitted. Mode 4 unbound except for horizontal commitments, and foreign doctors with professional certificate from their home country are permitted to provide services for up to six months in China after obtaining a licence from the Ministry of Public Health National treatment limitations for mode 3 require the majority of doctors and medical personnel of the joint ventures to be Chinese nationals. Mode 4 unbound except for horizontal commitments
B. Computer and Related Services	
(a) Consultancy services related to installation of computer hardware	No market access or national treatment limitations for modes 1, 2 and 3. Mode 4 unbond with regard to market access limitations, except for horizontal commitments National treatment limitations for mode 4 including minimum qualification requirements
(b) Software implementation services[a]	No market access or national treatment limitations for modes 1 and 2. With regard to market access, Mode 3 only permitted in the form of joint ventures, with foreign majority ownership permitted. Mode 4 unbound except for horizontal commitments No national treatment limitations for mode 3. Minimum qualification requirements for mode 4.

Table AIV.2 (cont'd)

Service sector	Commitments
(c) Data processing services[b]	No market access or national treatment limitations with regard to modes 1, 2 and 3. Limitations on market access with regard to mode 4 unbound except for horizontal commitments For national treatment limitations with regard to mode 4, minimum qualification requirements
D. Real Estate Services	
(a) Real estate services involving own or leased property	No market access limitations for modes 1 and 2. For mode 3 no limitations except for wholly foreign-owned enterprises, which are not permitted to participate in high standard real estate projects such as apartments and office buildings. Mode 4 unbound except for horizontal commitments No national treatment limitations for modes 1, 2 and 3. Mode 4 unbound except for horizontal commitments
(b) Real estate services on a fee or contract basis	No market access limitations for modes 1 and 2. Mode 3 only in the form of joint ventures with majority foreign ownership. Mode 4 unbound except for horizontal commitments No national treatment limitations for modes 1, 2 and 3. Mode 4 unbound except for horizontal commitments
F. Other Business Services	
(a) Advertising services	Market access through modes 1 and 2 permitted only through advertising agents registered in China with the right to provide foreign advertising services. Mode 3 permitted only through joint ventures with foreign investment limitations of up to 49%. Majority foreign ownership and wholly foreign-owned companies to be permitted within two and four years of accession. Mode 4 unbound except for horizontal commitments No national treatment limitations for modes 1, 2 and 3. Mode 4 unbound except for horizontal commitments
(c) Management or consulting services	No market access limitations for modes 1 and 2. Mode 3 only through joint ventures, with foreign majority ownership permitted; no limitations within six years of accession. Mode 4 unbound except for horizontal commitments No national treatment limitations on modes 1, 2 and 3. Mode 4 unbound except for horizontal commitments
(e) Technical testing and analysis services and freight inspection excluding statutory inspection for freight inspection services	No market access limitations for modes 1 and 2. Mode 3 only through foreign service suppliers engaged in inspection in their home country for over three years; registered capital requirements of US$350,000. Foreign majority ownership and fully foreign-owned subsidiaries to be permitted within two and four years after accession. Mode 4 unbound except for horizontal commitments No national treatment limitations for modes 1, 2 and 3. Mode 4 unbound except for horizontal commitments
(f) Services incidental to agriculture, forestry, hunting and fishing	No market access limitations for modes 1 and 2. mode 3 only through joint ventures, with foreign majority ownership permitted. Mode 4 unbound except for horizontal commitments No national treatment limitations for modes 1, 2 and 3. Mode 4 unbound except for horizontal limitations
(m) Related scientific technical consulting services[c]	No market access limitations for modes 1 and 2. Mode 3 only in petroleum exploitation in cooperation with Chinese partners. Mode 4 unbound except for horizontal commitments No national treatment limitations for modes 1, 2 and 3. Mode 4 unbound except for horizontal commitments
- Onshore oil-field services	No market access or national treatment limitations for modes 1 and 2. Market access for mode 3 only in petroleum exploitation in cooperation with the China National Petroleum Corp. in designated areas approved by the Government. Mode 4 unbound except for horizontal commitments Limitations on national treatment for mode 3 including data provision requirements, and investment in hard currency. Mode 4 unbound except for horizontal commitments
(p) Photographic services	No market access limitations for modes 1 and 2. Mode 3 only in the form of joint ventures, with foreign majority ownership permitted. Mode 4 unbound except for horizontal commitments No national treatment limitations for Modes 1, 2 and 3. Mode 4 unbound except for horizontal commitments
(q) Packaging services	No market access limitations for modes 1 and 2. Mode 3 through joint ventures. Foreign majority ownership and wholly foreign-owned subsidiaries permitted one and three years after accession. Mode 4 unbound except for horizontal commitments No national treatment limitations for modes 1, 2 and 3. Mode 4 unbound except for horizontal commitments

Table AIV.2 (cont'd)

Service sector	Commitments
(s) Convention services	No market access limitations for modes 1 and 2. Mode 3 through joint ventures, with foreign majority ownership permitted. Mode 4 unbound except for horizontal commitments No national treatment limitations for modes 1, 2 and 3. Mode 4 unbound except for horizontal commitments
(t) Translation and interpretation services	No market access limitations for modes 1 and 2. Mode 3 only through joint ventures, with foreign majority ownership permitted. Mode 4 unbound except as indicated in horizontal commitments No national treatment limitations for modes 1, 2 and 3. Mode 4 for qualified personnel
- Maintenance and repair services, maintenance and repair services of office machinery and equipment including computers; rental and leasing services.	No market access limitations for modes 1 and 2. Mode 3 only through joint ventures. Foreign majority and wholly foreign-owned subsidiaries to be permitted one and three years after accession. Mode 4 unbound except for horizontal commitments No national treatment limitations except for modes 1, 2 and 3. Mode 4 unbound except for horizontal commitments
2. COMMUNICATION SERVICES	
B. Courier Services	No market access limitations for modes 1 and 2. Mode 3 through joint ventures, with foreign investment not exceeding 49%. Foreign majority and wholly foreign-owned subsidiaries to be permitted within one and four years after accession. Mode 4 unbound except for horizontal commitments No national treatment limitations except for modes 1, 2 and 3. Mode 4 unbound except for horizontal commitments
C. Telecommunication Services	
Value-added services[d]	Market access limitations for modes 1 and 3 including geographical limitations, and investment through joint ventures; limitations to be eased after one year, and no geographical limitations two years after accession. No limitations for mode 2, and mode 4 unbound except for horizontal commitments No national treatment limitations for modes 1, 2 and 3. Mode 4 unbound except for horizontal commitments
Basic telecommunication services - Paging services	Market access limitations for modes 1 and 3 including geographical limitations, and investment through joint ventures; limitations to be eased after one year, and no geographical limitations following two years after accession. No limitations for mode 2, and mode 4 unbound except for horizontal commitments No national treatment limitations for modes 1, 2 and 3. Mode 4 unbound except for horizontal commitments
Mobile Voice and Data Services: - Analogue/Digital/Cellular Services - Personal Communication Services	Market access limitations for modes 1 and 3 including geographical limitations, and investment through joint ventures; limitations to be eased after one year, and no geographical limitations two years after accession. No limitations for mode 2, and mode 4 unbound except for horizontal commitments No national treatment limitations for modes 1, 2 and 3. Mode 4 unbound except for horizontal commitments
Domestic services[e] International services[f]	Market access limitations for modes 1 and 3 including geographical limitations, and investment through joint ventures; limitations to be eased after one year, and no geographical limitations two years after accession. No limitations for mode 2, and mode 4 unbound except for horizontal commitments No national treatment limitations for modes 1, 2 and 3. Mode 4 unbound except for horizontal commitments
D. Audiovisual Services	
- videos including entertainment software and distribution services - sound recording distribution services	No market access limitations for modes 1 and 2. Mode 3 through contractual joint ventures with Chinese partners for distribution of audiovisual products excluding motion pictures. Mode 4 unbound except for horizontal commitments No national treatment limitations for modes 1, 2 and 3. Mode 4 unbound except for horizontal commitments
- Cinema theatre services	No market access limitations for modes 1 and 2. Mode 3 access for construction and/or renovation of cinema/theatre up to foreign equity of 49%. Mode 4 unbound except for horizontal commitments

Table AIV.2 (cont'd)

Service sector	Commitments
3. CONSTRUCTION AND RELATED ENGINEERING SERVICES	Market access and national treatment limitations for mode 1 unbound due to lack of technical feasibility. No limitations for mode 2. Market access through mode 3 permitted only through joint ventures, with foreign majority ownership. Within three years of accession, wholly foreign-owned enterprises to be permitted although they are limited to four types of construction projects. Mode 4 unbound except for horizontal commitments No national treatment limitations for mode 3 except for different registered capital requirements, and an obligation for joint ventures to undertake foreign-invested construction projects. No limitations after accession. Mode 4 unbound except for horizontal commitments
4. DISTRIBUTION SERVICES	
A. Commission Agents' Services (excluding salt, tobacco) B. Wholesale Trade Services (excluding salt, tobacco)	Market access and national treatment limitations unbound for mode 1; no limitations for mode 2. Market access under mode 3 permits foreign service suppliers to establish joint ventures one year after accession. A list of activities they may engage in is provided. Foreign majority ownership to be permitted within two years from accession and no geographic or quantitative restrictions to apply No national treatment limitations under modes 2 and 3. Mode 4 unbound except for horizontal commitments
C. Retailing Services (excluding tobacco)	Limitations on market access and national treatment unbound for mode 1 and no limitations for mode 2. Limitations on market access for mode 3. No limitations on national treatment for mode 3. Market access and national treatment for mode 4 unbound except for horizontal commitments
D. Franchising	No market access and national treatment limitations for modes 1 and 2. For mode 3 no market access or national treatment limitations within three years after accession. Mode 4 unbound except for horizontal commitments
E. Wholesale or Retail Trade Services Away from a Fixed Location	Same as above
5. EDUCATIONAL SERVICES[g]	Market access and national treatment limitations unbound for mode 1; no limitations for mode 2. Market access under mode 3 limited to joint schools, with foreign majority ownership permitted. Mode 4 unbound except for horizontal commitments and other limitations. Qualification requirements for mode 3 access under national treatment limitations
6. ENVIRONMENTAL SERVICES A. Sewage Services B. Solid Waste Disposal Services C. Cleaning Services of Exhaust Gases D. Noise Abatement Services E. Nature and Landscape Protection Services F. Other Environmental Protection Services G. Sanitation Services	Market access unbound for mode 1 except for environmental consultation services. No limitations for mode 2. For mode 3 foreign service suppliers permitted only in joint ventures, with foreign majority ownership permitted. Mode 4 unbound except for horizontal commitments No national treatment limitations for modes 1, 2 and 3. Mode 4 unbound except for horizontal commitments
7. FINANCIAL SERVICES	
A. All Insurance and Insurance Related Services[h]	Market access under mode 1 unbound except for reinsurance, international marine, aviation and transport insurance, and brokerage for large-scale commercial risks, international marine aviation and transport insurance and reinsurance. Mode 2 unbound for brokerage, and no limitations on others. Mode 3 restrictions on forms of establishment, geographic coverage, and business scope and number of licences. Mode 4 unbound except for horizontal commitments No national treatment restrictions for modes 1 and 2. Mode 3 restrictions with regard to statutory insurance business. Mode 4 unbound except for horizontal commitments
B. Banking and Other Financial Services (excluding insurance and securities)[i]	Market access through mode 1 unbound except for some services listed. No limitations on mode 2. Mode 3 limitations with regard to geographic coverage, clients and licensing requirements. Mode 4 unbound except for horizontal commitments No national treatment limitations for modes 1 and 2. Mode 3 geographical restrictions as listed for market access. Mode 4 unbound except for horizontal commitments

Table AIV.2 (cont'd)

Service sector	**Commitments**
- Motor vehicle financing by non-bank financial institutions	Market access through mode 1 unbound except for some services listed. No limitations on modes 2 and 3. Mode 4 unbound except for horizontal commitments National treatment through mode 1 unbound. No limitations on modes 2 and 3. Mode 4 unbound except for horizontal commitments
- Other financial services[j]	No limitations on market access or national treatment for modes 1, 2 and 3. Mode 4 unbound except for horizontal commitments
- Securities	Market access through mode 1 unbound except that foreign securities institutions may engage directly in B shares transactions. No limitations on mode 2. Mode 3 unbound except for listed limitations. Mode 4 unbound except for horizontal commitments No limitations on national treatment for modes 1, 2 and 3. Mode 4 unbound except for horizontal commitments
9. TOURISM AND TRAVEL RELATED SERVICES	
A. Hotels (including apartment buildings and restaurants)	No market access limitations for modes 1 and 2. For mode 3, investment through joint ventures permitted; no restrictions within four years of accession. Mode 4 unbound except for horizontal commitments; foreign managers, specialists who have signed contracts with joint-venture hotels permitted to provide services in China No national treatment limitations for modes 1, 2 and 3. Mode 4 unbound except for horizontal commitments
B. Travel Agencies and Tour Operators	No market access limitations for modes 1, 2 and 3. Mode 3 restrictions on form of investment, registered capital requirements, and business scope; wholly foreign-owned subsidiaries to be permitted and geographical and business scope restrictions removed within six years after accession. Mode 4 unbound except for horizontal commitments No national treatment limitations for modes 1 and 2. Mode 3 restrictions restrict joint ventures or wholly foreign-owned agencies and operators from providing services for Chinese travelling abroad and to Hong Kong, China, Macao China, and to Chinese Taipei. Mode 4 unbound except for horizontal commitments
11. TRANSPORT SERVICES	
A. Maritime Transport Services - International transport (freight and passengers except cabotage transport services)	No market access limitations for mode 1 on liner shipping and bulk, tramp and other international shipping. No limitations on mode 2. Mode 3 restrictions on establishment of companies for operating a fleet under the Chinese national flag. Mode 4 unbound for ships crew except as under horizontal commitments; restrictions on chairman of board of directors and other executives of joint ventures No national treatment limitations for modes 1 and 2. No mode 3 restrictions for companies established under the Chinese national flag; other forms of commercial presence unbound. Mode 4 unbound except for horizontal commitments
H. Auxiliary Services (a) Maritime cargo-handing services (c) Customs clearance services for maritime transport	Limitations on market access and national treatment for mode 1 unbound due to lack of technical feasibility. No limitations on mode 2. Mode 3 market access permitted only through joint ventures, with foreign majority ownership permitted. No national treatment limitations for mode 3. Mode 4 for both market access and national treatment unbound except for horizontal commitments
(d) Container station and depot services	Same as above
(e) Maritime agency services	No market access or national treatment restrictions for modes 1 and 2. Mode 3 market access through joint ventures, with foreign equity limited to 49%. No national treatment limitation for mode 3. Mode 4 for both market access and national treatment unbound except for horizontal commitments
B. Internal Waterways Transport (b) Freight transport	Market access and national treatment for mode 1 limited to international shipping in ports open to foreign vessels. No limitations for mode 2 and unbound for mode 3. Mode 4 unbound except for horizontal commitments
C. Air Transport Services (d) Aircraft repair and maintenance services	Market access and national treatment for mode 1 unbound due to lack of technical feasibility. No limitations for mode 2. Market access for mode 3 limited to joint ventures with the Chinese partner being the dominant shareholder; licences are subject to economic needs test. For limitations on national treatment under mode 3, the joint ventures are required to conduct their business in the international market. Mode 4 unbound for both market access and national treatment except for horizontal commitments
- Computer reservation system services	Market access limitations with regard to mode 1. No national treatment limitations for mode 1. No limitations on market access or national treatment for mode 2. Mode 3 unbound and mode 4 unbound except for horizontal commitments

Table AIV.2 (cont'd)

Service sector	Commitments
E. Rail Transport Services - Freight transportation by rail F. Road Transport Services - Freight transportation by road in trucks or cars	No limitations on market access or national treatment for modes 1 and 2. Market access through mode 3 only through joint ventures with foreign investment restricted to 49%. For rail transport majority ownership and fully foreign owned subsidiaries to be permitted with three and six years after accession (one and three years respectively for road transport). No national treatment restrictions for mode 3 and mode 4 for market access and national treatment unbound except for horizontal commitments
H. Services Auxiliary to all Modes of Transport - Storage and warehousing services	Market access and national treatment for mode 1 unbound; no limitations on mode 2. Market access through mode 3 only through joint ventures with foreign equity up to 49%; foreign majority ownership to be permitted with in one year of accession and no limitations within three years of accession. No mode 3 limitations on national treatment. Mode 4 unbound except for horizontal commitments
- Freight forwarding agency services (excluding freight inspection)	No market access and national treatment limitations for modes 1 and 2. Market access limitations for mode 3. None for national treatment. Mode 4 unbound except for horizontal commitments

a Systems and software consulting services, systems analysis services, systems design services, programming services and systems maintenance services.

b Input preparation services, data processing and tabulation services, time sharing services.

c Offshore oil-field services, geological, geophysical and other scientific prospecting services, sub-surface surveying services.

d Electronic mail, voice mail, on-line information and database retrieval, electronic data interchange, enhanced/value-added facsimile services (including store and forward, store and retrieve), code and protocol conversion and on-line information and/or data processing (including transaction processing).

e Voice services, packet-switched data transmission services, circuit-switched data transmission services, facsimile services, domestic private leased circuit services.

f Voice services, packet-switched data transmission services, circuit-switched data transmission services, facsimile services, and international closed user group voice and data services (use of private leased circuit service is permitted).

g Primary and secondary education services (excluding national compulsory education), higher education services, adult education services and other education services (including English language training).

h Life, health and pension/annuities insurance; non-life insurance; reinsurance; and services auxiliary to insurance.

i Acceptance of deposits and other repayable funds from the public; lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction; financial leasing; all payment and money transmission services, including credit, charge, and debit cards, travellers cheques and bankers drafts (including import and export settlement); guarantees and commitments; and trading for own or for customers' account: foreign exchange.

j Provision and transfer of financial information and financial data processing and related software by supplier of other financial services; advisory, intermediation and other auxiliary financial services on all activities listed in subparagraphs (a) through (k) including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

Note: Mode 1: cross border supply; mode 2: consumption abroad; mode 3: commercial presence; and mode 4: presence of natural persons.

Source: WTO documents GATS/SC/135, 14 February 2002, GATS/SC/135/Corr.1, 20 February 2003, and GATS/SC/135/Corr.2, 30 November 2004.

Table AIV.3
Banking institutions in China

State-owned commercial banks (SOCBs)

The Big Four SOCBs are: the Agricultural Bank of China (ABC), originally set up to provide loans to the agricultural and rural areas; the Bank of China (BOC), mandated to specialize in international transactions; the China Construction Bank (CCB), to specialize in financing construction and infrastructure projects, usually in the form of long-term loans; and the Industrial & Commercial Bank of China (ICBC), originally to provide working-capital loans to the industrial and commercial sectors in the urban areas. They are the most dominant and influential players in China's banking sector. Together they account for around 53% of the financial system's assets and 55% of the banking sector's total assets in 2006. All four have diversified from their original mandate since 1994, when the Government created the so-called "policy banks" in order to take over the Big Four's state-directed lending role, and to allow the SOCBs to direct their operations toward commercial lending. SOCBs continue to be controlled by the Government, although foreign strategic investors have been permitted to have minority stakes in them. In addition to the Big Four, the Bank of Communications is wholly state-owned.

Policy banks

These banks were established in 1994 to relieve the Big Four of their state-directed lending role. They are: the Agricultural Development Bank of China, which primarily took over the policy lending role from the ABC; the China Development Bank, which took over from the CCB and to a certain extent from the ICBC; and the Export-Import Bank of China, which took over from the BOC, particularly the trade financing function. Their funds come mainly from guaranteed bond issues. The combined assets of the three policy banks have grown rapidly and now make up around 10% of the total banking sector.

Commercial banks

Equity ownership of these banks is shared between the state and private investors. Together, they account for almost 20% of banking sector assets. Commercial banks include the joint-stock commercial banks (JSCBs), the city commercial banks, and the rural commercial banks. The first JSCBs were formed in the 1980s; they are organized as joint-stock limited companies with minor investment by local government. However, the local governments' investment has been gradually transferred to local corresponding corporations, which are special vehicles running state-owned assets. As a result, the shares owned by local governments have gradually decreased; most are owned by SOEs and private enterprises. They are subject to closer scrutiny by shareholders and have better disclosure and governance requirements. In addition, 8 of the 12 JSCBs are listed on domestic stock exchanges and thus subject to additional disclosure requirements. As a result partly of better governance, they have lower NPLs, better capitalization, and more adequate provisioning than the SOCBs. They have made inroads into the small and medium enterprise (SME) loan market. The JSCBs have recently been the preferred joint-venture partner of international banks trying to gain access to China's banking sector. City commercial banks are owned by municipal governments and others, including SOEs, private enterprises, and individual investors. Their scope of business tends to be concentrated in the city where they are located. Rural commercial banks were set up in 2001 and took over some of the activities of the rural credit cooperatives; they provide financing mainly for farmers and small and medium-sized enterprises in rural areas.

Credit cooperatives

The cooperative sector is divided into urban credit cooperatives and rural credit cooperatives. The former are being consolidated gradually to form the city commercial banks; while the rural credit cooperatives mainly provide funding for agricultural households (as opposed to rural commercial banks which provide funding for commercial ventures in the rural areas).

China Postal Savings Bank

This was established in December 2006, as a result of the restructuring of the country's postal system. The restructured State Post Bureau (SPB) and the newly established China Post Group (CPG) were officially launched as a result of the restructuring. Under the restructuring scheme approved by the State Council in mid 005, the SPB will be the government regulator of postal services, while CPG will concentrate on the business operations of postal services. The bank is wholly owned by the China Post Group (CPG), has a registered capital of Y 20 billion, and will be under the supervision of the CBRC. Based on the huge amount of postal savings in the system (more than Y 1.7 billion at end December 2006, equivalent to more than 9.5% of national deposits), the new bank will become the country's fifth-largest, after the Big Four. As the postal system has a network of 36,000 outlets across the country, the new bank will also become the second-largest lender in terms of outlets, exceeded only by the ABC. It will specialize in retail banking and intermediary services, and is expected to boost rural banking.

Foreign banks

At end-August 2007, there were 22 locally incorporated foreign-bank subsidiaries, 12 of which were converted from branches. At the time of writing, according to the authorities, foreign banks account for around 2.4% of total banking-sector assets. Regulations have gradually allowed foreign banks greater access to China's domestic banking business.

Non-bank financial institutions (supervised by the CBRC):

This group includes trust companies, corporate finance companies, leasing companies, money brokerage companies and automobile finance companies; together they account for around 3% of the banking sector's total assets.

Source: CBRC Annual Report 2006; WTO 2006; Deutsche Bank Research (2004), "China's Financial Sector: Institutional Framework and Main Challenges" (9 January 2004); and Information updated by the authorities.

Table AIV.4
Registration requirements and application procedures in maritime transport services, 2008

Qualification requirements	Application requirements	Application procedures
International shipping operators Suitable vessels, among which vessels of Chinese nationality; vessels in compliance with the State's technical standards for maritime traffic safety; bills of lading, passenger tickets or multimodal transportation documents; senior executives with professional qualifications	Application letter; feasibility study report; investment agreement; business registration document; photocopy of the vessel's ownership, nationality or inspection document; sample bill of lading, passenger ticket or multimodal transport document; certificates of senior executives' professional qualifications	Application submitted to the MOC, and a duplicate to MOC-designated departments in provincial governments; MOC decides whether to grant permission within 30 working days; applicants informed of negative decision in writing along with reasons
International shipping agencies At least two senior executives with no less than three years' experience in international maritime transport business operations; fixed place of business and necessary business facilities	Application letter; feasibility study report; investment agreement; business registration document; proof of a fixed place of business; documents certifying the business experience of the senior executives; electronic data interchange (EDI) agreement with ports and Customs, or other documents issued by relevant ports or Customs	Application submitted to the MOC, and duplicate to MOC-designated departments in provincial governments; MOC decides whether to grant permission within 15 working days; MOC issues permission, or notifies negative decision in writing, along with reasons
International shipping management operators At least two senior executives with no less than three years' experience in international maritime transport business operations; some staff members with master's qualifications and chief engineer's qualifications appropriate to the ships and trading zones under their management; equipment and facilities appropriate to international ship management services	Application letter; feasibility study report; investment agreement; business registration document; proof of a fixed place of business; documents certifying the business experience of the senior executives; photocopies of the master's, and the chief engineer's certificates	Application submitted to the MOC-designated departments in provincial governments; designated departments decide whether to grant permission within 15 working days; they issue permission or notify negative decision in writing, along with reasons
Non-vessel-operating common carriers (NVOCC) Enterprise must be established within Chinese territory, and pay a surety bond of Y 800,000, and an additional Y 200,000 for each subsequent branch, to a designated bank account in China	Application letter; feasibility study report; business registration document; sample bill of lading; photocopy of receipt certifying payment of the surety bond	Application submitted to the MOC, and duplicate to MOC-designated departments in provincial governments; MOC decides whether to grant permission within 15 working days; MOC issues permission or notifies negative decision in writing, along with reasons
International liner operator Must be qualified as an international shipping operator, and other requirements	Name; registered place of business; photocopy of business licence; and information about main investors and main management staff; particulars of the vessels; description of the intended shipping lines, schedules and ports of call; the freight tariff; and a sample bill of lading, passenger ticket or multimodal transport document	Application submitted to the MOC; MOC decides whether to grant permission within 30 working days; MOC issues permission or notifies negative decision in writing, along with reasons
Wholly foreign-owned shipping company Engaged in shipping for more than 15 years; established resident representative office for more than three years in the port city where the intended company is to be located; liner vessels must stop at least once a month at the port where the intended company is to be located; foreign shipping companies engaged in tramping services must possess stable cargo sources in China; ensure business operations did not violate Chinese law, administrative regulations or rules in China for two consecutive years	Application letter; feasibility report; company's charter; legal documents and credit certifying documents; appointment letter of the legal representative and the names and resumes of the board directors; sample bill of lading; photocopies of the document approving the operation of the liner service and that approving the establishment of the resident representative office; other documents required by MOFCOM and MOC	Application submitted to the MOFCOM-designated departments in provincial governments, and a duplicate copy sent to the MOC; MOFCOM, after consulting with the MOC, examines and decides whether to approve the application. With the approval document, the applicant then registers with the SAIC, and obtains a permit from MOC before starting operations

Source: Regulations on International Maritime Transportation; Implementing Rules of Regulations on International Maritime Transportation; and Interim Provisions on Examination and Approval of Wholly-Foreign-Owned (WFO) Shipping Companies.