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Trade Policy Review Body

TRADE POLICY REVIEW

REPORT BY THE SECRETARIAT

CHINA

This report, prepared for the fifth 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.

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Document WT/TPR/G/300 contains the policy statement submitted by China.

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SUMMARY

1. During the period under review (2012-14), China's economy has experienced stable growth, with real GDP expanding by 7.7% annually, in both 2012 and 2013, and forecast at 7.5% for 2014. The driving force behind growth was strong domestic demand, mainly private consumption, triggered by a policy of fiscal expansion, by rising incomes, and by credit availability. The Chinese Government continues to promote consumption expansion through specific measures, including a structural tax reduction policy. China's strong domestic demand, including for imports, has continued to contribute to global economic growth. Consumer price inflation, which had reached 5.4% in 2011, slowed down in 2012 and 2013, due to lower commodity prices, wage increase moderation and more contained domestic food and energy prices hikes.

2. China's traditional external current account surplus reflects the excess of national savings over investment. The faster growth of consumption has reduced China's savings-investment gap somewhat during the past few years, and this has translated into a lower current account surplus (2% of GDP in 2013, down from 4% in 2010). However, the levels of both savings and investment continue to be very high, representing some 50% and 47% of GDP, respectively.

3. During the period under review, China continued to implement an active fiscal policy, with expenditure increasing faster than revenue. The fiscal deficit reached 1.7% of GDP in 2012 and an estimated 1.9% of GDP in 2013. Although the level of Central Government debt remains moderate at 14.9% of GDP in 2012, total government debt is considerably higher, reaching 39.4% of GDP by the end of 2012. China continues to promote private participation in the economy and the number of private enterprises and individual industrial and commercial households has been increasing. However, state participation in the economy remains relatively high, as the public sector controls some 40% of fixed-asset investment and accounts for some two-thirds of total exports.

4. During most of the period reviewed, China's monetary policy has consisted mostly of fine–tuning measures applied to either pre-empt inflationary pressure from building up or to keep economic momentum, as required. In 2013, a number of policy changes were introduced, including further steps towards interest rate liberalization, with financial institutions now allowed to freely determine their lending rates.

5. The People's Bank of China (PBC) continues to maintain a "managed floating" exchange rate regime, taking a basket of currencies as reference. During the period under review, the fluctuation band range of the RMB/US$ exchange rate in the interbank spot foreign exchange market was enlarged twice, from 0.5% to 1% in 2012, and from 1% to 2% in March 2014. A more flexible exchange rate, reflecting more closely the evolution of the economy's fundamentals, may play a role in promoting import consumption growth. In fact, since the launching of the exchange rate reform in 2005 to end-2013, the RMB has experienced a substantial appreciation, both in nominal and in real terms. Enhanced exchange rate flexibility has been accompanied by measures to facilitate foreign exchange transactions. Current account cross-border RMB business procedures have been simplified, and a policy of gradually making the RMB convertible for certain capital account transactions has been put forth. Also, the restrictions placed on the opening of foreign exchange accounts have been removed.

6. China has become the world's largest trader (excluding intra-EU trade). During the period under review, both exports and imports of goods expanded rapidly, with exports totalling US$2.21 trillion and imports amounting to US$1.95 trillion in 2013. The share of both merchandise exports and imports on GDP has, however, declined to 24% and 21.3%, respectively, in 2013 (down from 26.7% and 23.7% in 2010). In 2013, manufactured products remained the dominant component of China's exports, accounting for 94% of the total. Among manufactured products, office machines and telecommunication equipment and textiles and clothing continued to be China's main exports. Intra-industry trade is of growing importance to China, as manufactures accounted for 58% of China's imports in 2013. China's main manufacturing imports include office machines and telecommunications equipment, and chemicals. Fuels and other mining products accounted for almost 30% of China's imports in 2013, while imports of agricultural products accounted for some 8% of the total.

7. In 2013, the main destinations for China's merchandise exports remained the EU; the United States; Hong Kong, China; Japan and the Republic of Korea, as well as ASEAN countries. The main

sources of its imports were the EU; the Republic of Korea; Japan; Chinese Taipei; the United States and Australia, as well as ASEAN countries. In 2013, services represented 8.7% of China's total exports and 14.4% of its imports.

8. China remains a large recipient of foreign direct investment (FDI). FDI inflows reached US$117.6 billion in 2013. The main sectors attracting FDI are manufacturing, real estate, and wholesale and retail trade. The sources of FDI inflows continue to be highly concentrated: Hong Kong, China remains, by far, the main source of FDI to China, accounting for 62.4% of total FDI in 2013. It is followed by Singapore, Japan, the EU, the British Virgin Islands, the Republic of Korea, the United States, and Chinese Taipei. In 2012, outward FDI totalled US$70.1 billion, with the main destination being Hong Kong, China, with two-thirds of the total.

9. The Ministry of Commerce (MOFCOM) continues to have main responsibility for policy coordination and implementation of all trade-related issues within the overall national economic and social development policy devised by the National Development and Reform Commission (NDRC). Other Ministries involved in trade policy formulation and implementation, include: Agriculture; Environmental Protection; Finance; Industry and Information Technology; Land and Resources; and Transportation. During the period under review, a National Leading Group for Comprehensive Deepening Reform was established, tasked with setting a roadmap to deepen economic reform including by allowing the market to play a more decisive role in allocating resources, reforming State-owned enterprises, and encouraging private ownership. With respect to trade and investment policy reform, measures envisaged include: the reform of the investment regime to make it more open and predictable; the acceleration of the implementation of free-trade agreements and of the development of the China (Shanghai) Pilot Free Trade Zone (CSPFTZ); and the opening-up of border areas.

10. China became a WTO Member on 11 December 2001. China is an observer to the Plurilateral Agreement on Government Procurement (GPA) and is in the process of negotiating its accession thereto. China is an observer to the Plurilateral Agreement on Trade in Civil Aircraft, and a participant in the Information Technology Agreement (ITA). China's notifications to the WTO cover a wide range of agreements; however updated notifications appear to be necessary in the area of subsidies. Between 2012 and 2013, China was involved in 4 dispute settlement cases as a complainant, 8 cases as a respondent, and 15 cases as a third party.

11. China has concluded 12 FTAs with over 20 States and regions. China has FTAs in force with Chile, Costa Rica, New Zealand, Pakistan, Peru and Singapore. Since its last Trade Policy Review, China has signed free trade agreements with Switzerland and Iceland, but they are yet to enter into force. It is currently negotiating FTAs with the Gulf Cooperation Council (GCC) countries, Australia; Norway; the Republic of Korea; and Japan. Supplementary agreements were added to the initial Closer Economic Partnership Arrangements (CEPA) with Hong Kong, China and Macao, China. Unilateral preferences are granted by China to LDCs. These preferential margins have improved substantially since the previous Review.

12. China's trade and investment policy is managed and fine-tuned through a number of legal instruments, including Central Government Five-Year Plans, sectorial and provincial Five-Year Plans and different Catalogues that guide in the implementation of the overall policies and list the industries that can receive preferential treatment and the sectors in which investment is encouraged, just permitted or prohibited. It is not always clear how the different Catalogues should be read, as they sometimes overlap and even conflict, reflecting the different agendas at the different levels. The different layers of regulation add an additional level of difficulty when trying to unravel specific policy measures in China.

13. China encourages direct inward FDI as well as joint ventures between Chinese and foreign companies, particularly with regard to R&D activities. FDI is directed towards the areas in which China has a strategic interest. FDI has been encouraged in areas such as high-end manufacturing, high-tech industries, service industries, new energy and energy-saving environmental protection industries. China actively guides foreign investment in the central and western regions, where projects may benefit from less restrictive policies. Foreign investment projects are classified in four categories: encouraged, permitted, restricted, and prohibited. Projects in the encouraged category are eligible for preferential treatment as specified in the relevant laws and regulations, while projects in the restricted category must undergo a more thorough examination and approval process.

14. In its quest to attract FDI, China took measures aimed at simplifying rules and easing restrictions on the use of capital for direct investments. For example, foreign invested enterprises (FIEs) are now allowed to extend loans to offshore shareholders, and to own some shares in State-controlled enterprises in certain sectors. There are no restrictions on lending by domestic banks to FIEs. In December 2013 China introduced changes to the examination and approval procedures for foreign-invested fixed asset investment projects to facilitate establishment. There are now two categories of investment projects depending on their required modality of registration: (a) projects subject to verification (examination of the project); and (b) projects subject to filing. The *Catalogue of Investment Projects Subject to Government Verification* lists the fixed-asset investment projects subject to verification; for projects not listed in the Catalogue, only filing is required.

15. In August 2013, the State Council officially approved the establishment of the China (Shanghai) Pilot Free Trade Zone (CSPFTZ), a pilot project to test the further liberalization of trade in services and capital account transactions. The CSPFTZ is also meant to facilitate trade by simplifying customs procedure and allowing goods to be cleared at the port, simplify investment procedures, and to grant on a trial basis, pre-establishment MFN treatment for FIEs. A Negative-List approach is used for investment projects; those included in the List require verification. Regarding the trial measures to liberalize services introduced, in telecommunications, ownership conditions have been relaxed at varying degrees for eight value added services, while in financial services, foreign investors registered in the Zone have been allowed to participate in domestic futures trading, to make investments in foreign and domestic securities and futures markets, and to issue RMB-denominated bonds in domestic markets. The provision of insurance and insurance intermediation services has also been liberalized within the Zone.

16. In order to increase its competitiveness, China has also adopted measures to gradually liberalize the provision of services outside the CSPFTZ. For instance, in telecommunications China has adopted measures to extend the geographical scope of universal services. In financial services, measures were adopted to open up to foreign providers the market for third party compulsory automobile insurance. In air transport the only major development is the long-awaited regulation on computer reservation services which does not entail any new liberalization but clarifies the legal responsibilities of the various actors involved. China also adopted prudential measures regarding financial services, to tackle systemic risks such as non-performing loans and real estate assets bubbles, and reinforced prudential regulations notably regarding compliance with the Basel Committee recommendations and anti-money laundering.

17. In the area of trade in goods, China has continued its efforts to facilitate trade, which date back to 2006, by launching a series of reforms, including the introduction of paperless customs clearance procedures. However, despite these efforts, customs procedures across the country still require harmonization. In addition, none of the trade facilitation measures implemented so far apply to goods subject to licensing or other restrictions.

18. The tariff regime has not changed substantially since the last review. China's applied MFN tariff in 2013 consisted mainly of *ad valorem* rates (99.5% of the total number of lines). The non-*ad valorem* rates comprise specific and alternate rates, and formula duties. China's average applied MFN rate in 2013 was 9.4%, almost unchanged since 2011 and 2009 when the average stood at 9.5%. The applied tariff continues to be higher for agricultural products (WTO definition), at 14.8%, showing a slight decline from the averages for 2009 and 2011. The average tariff on non-agricultural products has remained unchanged since 2009, at 8.6%.

19. Import licensing, restrictions and prohibitions are maintained on grounds of state security; public morality; human, animal and plant health; environmental protection; balance of payment reasons; and to comply with international commitments. China uses both automatic and non-automatic licensing. Goods subject to any of these restrictions are listed in Catalogues issued by the relevant agencies. However, these lists can be adjusted as necessary, and imports of goods that are not included in the Catalogue can be restricted or prohibited on a temporary basis by the relevant authorities.

20. China's main legislation with respect to trade remedies was not modified during the period under review. The legal framework to conduct anti-dumping (AD) investigations and apply measures is provided by the Foreign Trade Law, as amended, by the relevant regulations, and by a number of published Rules, some of them provisional. During the period under review, the number

of AD duty orders in place declined slightly, from 117 reported for December 2010 to 113 as at 31 December 2013. Chemical products account for 62.8% of these orders, while 22.1% involve resins, plastics, and rubbers. Imports from 16 countries or territories were affected. The number of final AD orders issued fell from 15 in 2010 to 6 in 2011, 5 in 2012 and 8 in 2013. However, the average length of the application of measures increased to slightly over six years, as all sunset reviews conducted during the period led to the duties remaining in force. Initiations of AD investigations increased from 5 in 2011 to 9 in 2012 and 11 in 2013. Of the 22 investigations initiated between 2011 and mid-2013, around 60% resulted in provisional measures.

21. China initiated three countervailing (CV) investigations in 2012, involving saloon and cross-country cars (new shipper review), originating in the United States, and solar-grade polysilicon, originating in the EU and the United States. No investigations were initiated in 2011 or in 2013. As at 31 December 2013, there were three CV measures in place affecting imports from the EU and the United States. China has not initiated any safeguard investigations pursuant to the WTO Agreement on Safeguards since its previous Review.

22. The procedures to set standards, technical regulations and SPS measures have not been subject to changes since the last Review. No information was available regarding measures at the provincial level and their impact on trade.

23. Export restraints are an important feature of China's trade regime. China imposes export taxes on certain products, and quotas or even bans on others. The list of goods subject to "statutory" and interim export taxes is issued every year. Exports that are subject to interim taxes may also be subject to special export duties, which are applied seasonally and may be substantially higher than interim duty rates. In 2013 the special export duty rate was 75%, while interim duty rates varied from 5% to 35%. Export taxes were applied to some 4.2% of all tariff lines at the HS 8-digit level in 2013; as China is the leading world exporter of certain products subject to export taxes, their application may have an impact on the world price of these products.

24. As in the case of imports, MOFCOM in collaboration with other relevant departments, issues a catalogue of goods restricted or forbidden for export. Export licences may be required for goods subject to export restrictions. These measures are in place mainly to protect the environment and to preserve natural resources. However, it would appear that, in practice, these and other measures affecting exports have been used as policy instruments to encourage or discourage exports as necessary to meet industrial development goals.

25. The extent to which China supports exports and the different sectors of the economy is not clear; specific information regarding this was not provided to the Secretariat in the context of this Review. In addition, China's most recent notification (2011) to the WTO SCM Committee covered the period of 2005-2008 and the latest (2014) notification to the Agricultural Committee, in which China states that it did not maintain export subsidies, covered the year 2012.

26. China maintains a large number of support programmes at the sectorial, regional and enterprise level to attain different economic and social goals. The different support programmes range from those designed to attain major policy goals (i.e. economic growth) to those aimed at boosting specific industries, but they are intertwined. The application of these programmes is not always transparent. A full identification of these programmes was not possible for the Secretariat in the context of the current Review, as specific support measures are often the result of internal administrative measures that are not always easy to identify and generally only available in Chinese. In addition, the budget is not a public document hence it is not possible to identify outlays. Support is also provided through different financial mechanisms.

27. China also provides industry-specific subsidies for inputs, land and technology to firms that the central and provincial governments perceive as strategically important or to revitalize them as the NDRC calls for in its National Old Industrial Base Adjustment and Renovation Plan (2013 - 2022). Under this plan, State-Owned Enterprises (SOEs) and favoured companies can purchase inputs below cost and directly from each other, affecting competitiveness.

28. Credit policy continues to be of major importance in China. Efforts continue to be made to enhance the coordination between credit policy and industrial policies, by speeding up rural financial products and service innovation, improving the provision of financial services for small-

and medium- sized enterprises, and by adopting measures to prevent and alleviate local debt-related risks. The People's Bank of China (PBC) has guided financial institutions to intensify financial support to areas such as scientific and technological innovation, emerging industries of strategic importance, and service industries. Financial institutions were also guided to extend credit support for railways, shipping, thermal power and steel, and were encouraged to use credit products flexibly to support profitable export-oriented enterprises. Credit policy was also made to play a guiding role in promoting the implementation of regional development strategies.

29. Agriculture continues to receive support to guarantee farmers' income, develop rural areas, and ensure food security and price stability of agricultural products in the domestic market. The four main subsidies in place to support the sector are: the subsidy to promote the use of superior strains and seeds, the subsidy to purchase agricultural machinery and tools, the comprehensive subsidy for agricultural inputs, and the direct subsidy to farmers.

30. During the period under review, China began implementing the provisions regarding competition policy adopted in the course of the previous Review and that aim at reinforcing observance and combating monopolistic practices as the economy liberalizes. Measures adopted include provisions on the implementation of reviews of concentrations of undertakings (anti-trust reviews), and reviews of foreign companies' mergers and acquisitions of domestic companies relating to "national security" (national security reviews), with a view to increasing transparency. Provisions were also adopted with respect to measures related to price abuse of dominant positions, price-related administrative monopoly, and price fixing. China's competition law covers all types of enterprises; however, immunity against the provisions of the law is granted to State-owned enterprises (SOEs) that are considered vital to the Chinese economy and to safeguard national security, or that have been granted legally-exclusive production and sales rights. Concentrations above certain thresholds must be notified and are subject to a prior anti-trust review.

31. China applies price controls to commodities and services deemed to have a direct impact on the national economy and people's livelihoods. They are set both at the central and provincial levels. Price controls may take the form of "government prices", fixed prices set by the authorities, or "government-guided prices", for which a range within which prices can fluctuate, is determined. The determination of government prices or government-guided prices varies in accordance with the type of product or service, based on criteria such as market situation, average social costs, the effect on the standard of living of the population, as well as on economic, regional and seasonal factors. Although the methodology for setting prices is the same across provinces, prices may be set at different levels depending on the particular province.

32. Under the Government Procurement Law, the Government is required to procure domestic goods, construction projects and services, subject to certain exceptions including: unavailability in China, lack of availability on reasonable commercial terms, procurement for use abroad, or when it is otherwise provided for by other laws and administrative regulations. Government procurement can be centralized or decentralized. The threshold for procurement under the central budget in 2013 was RMB 500,000 for goods and services, and RMB 600,000 for construction projects. Centralized procurement accounted for 87.6% of government procurement in 2012. Decentralized procurement of items not listed in the Centralized Procurement Catalogue, but with a value above a certain threshold, which is specified by governments at various levels, is carried out by the procuring agency itself. China uses five methods for the procurement of goods, services and works: public tendering, selective tendering, competitive negotiations, request for quotation, and single-source procurement.

33. During the period under review, China has continued to implement measures aimed at improving its Intellectual Property Rights (IPRs) protection regulatory environment, including amendments to legislation and regulations, as well as departmental rules. One of the main changes during the period under review was the enactment of the third amendment to the Trademarks Law in August 2013, effective 1 May 2014. China also promulgated the Administrative Measures on Prioritized Examination of Invention Patent Applications in 2012. Despite efforts undertaken by the authorities to combat infringement, enforcement of IPRs continues to be a major challenge in China.

1 ECONOMIC ENVIRONMENT

1.1 Recent Economic Developments

1.1.1 Real economy

1.1. During the period under review (2012-2014), China's economy experienced stable growth with real GDP expanding by 7.7% annually, both in 2012 and in 2013, exceeding expectations. This growth rate was, however, lower than those registered in 2010 and 2011 (10.4% and 9.3%, respectively). The driving force behind growth was strong domestic demand, triggered by a policy of fiscal expansion, by rising incomes, and credit availability (Table 1.1). Consumer price inflation, which had reached 5.4% in 2011, proceeded at a much more contained pace in both 2012 and 2013, as world prices of primary commodities declined; additionally there was moderation in wage increases and domestic food and energy price hikes. At the People's National Congress in March 2014, China lowered its prospects for annual growth to 7.5% for 2014. China's nominal GDP per capita (in U.S. dollar terms) increased from around US$6,093 in 2012 to US$6,767 in 2013.

Table 1.1 Selected macroeconomic indicators, 2009-13

	2009	2010	2011	2012	2013[a]
Nominal GDP (RMB billion)	34,090.3	40,151.3	47,310.4	51,947.0	56,884.5
Nominal GDP (US$ billion)	4,990.5	5,931.2	7,325.0	8,229.2	9,185.0
Real GDP (RMB billion, 2010 prices)	36,353.4	40,151.3	43,885.3	47,243.6	50,867.8
Real GDP (US$ billion, 2010 prices)	5,321.5	5,930.5	6,794.4	7,484.3	8,213.8
GDP per capita (RMB)	25,607.5	30,015.0	35,197.8	38,459.5	41,907.6
GDP per capita (US$)	3,748.7	4,433.9	5,449.6	6,092.6	6,766.7
National accounts (percentage change)					
Real GDP	9.2	10.4	9.3	7.7	7.7
Consumption[b]	4.6	4.5	5.3	4.2	..
Investment[b]	8.1	5.5	4.4	3.6	..
Net exports[b]	-3.5	0.4	-0.4	-0.1	..
Unemployment rate (%)	4.3	4.1	4.1	4.1	4.1
Prices and interest rates					
Inflation (CPI, percentage change)	-0.7	3.3	5.4	2.6	2.6
Lending rate (%, period average)	5.31	5.81	6.56	6.00	6.00
Deposit rate (%, period average)	2.25	2.75	3.50	3.00	3.00
Exchange rate					
RMB per US$ (period average)	6.831	6.770	6.459	6.312	6.193
Real effective exchange rate index (percentage change)[d]	3.4	-0.4	2.7	5.7	6.1
Nominal effective exchange rate index (percentage change)	5.0	-1.9	0.1	5.1	5.1
Fiscal policy[e] (% of GDP)					
Government balance	-2.3	-1.7	-1.1	-1.7	-1.9
Total revenue	20.1	20.7	22.0	22.6	22.7
Tax revenue	17.5	18.2	19.0	19.4	19.4
Total expenditure	22.4	22.4	23.1	24.2	24.6
Central government total debt	17.7	16.8	15.2	14.9	..
Domestic debt	17.5	16.7	15.1	14.8	..
Saving and investment					
GDP by expenditure approach (RMB billion)	34,877.5	40,281.7	47,261.9	52,923.8	..
Final consumption expenditure (RMB billion)	16,927.5	19,411.5	23,211.2	26,183.3	..
Gross capital formation RMB billion)	16,446.3	19,360.4	22,834.4	25,277.3	..
Net export of goods and services (RMB billion)	1,503.7	1,509.8	1,216.3	1,463.2	..
Savings (RMB billion)	17,950.0	20,870.2	24,050.7	26,740.5	..
Savings to expenditure approach GDP (%)	51.5	51.8	50.9	50.5	..
Investment to expenditure approach GDP (%)	47.2	48.1	48.3	47.8	..
Savings-investment gap (% of GDP)	4.3	3.7	2.6	2.8	..
External sector (% of GDP, unless otherwise indicated)					
Current account balance	4.9	4.0	1.9	2.6	2.0
Net merchandise trade	5.0	4.3	3.3	3.9	3.9
Value of exports	24.1	26.7	26.0	25.0	24.2

	2009	2010	2011	2012	2013[a]
Value of imports	19.1	22.4	22.7	21.1	20.2
Services balance	-0.6	-0.5	-0.8	-1.1	-1.4
Capital account	0.1	0.1	0.1	0.1	0.0
Financial account	3.9	4.8	3.5	-0.4	3.5
Direct investment	1.7	3.1	3.2	2.1	2.0
Balance of payments	8.0	8.0	5.3	1.2	4.7
Merchandise exports[f] (percentage change)	-16.1	31.4	20.4	8.0	7.9
Merchandise imports[f] (percentage change)	-11.2	39.1	25.1	4.5	7.1
Service exports[f] (percentage change)	-12.0	25.2	14.7	2.9	7.6
Service imports[f] (percentage change)	-0.0	21.7	28.1	13.5	17.6
Gross official reserves[g] (US$ billion; end period)	2,416.0	2,866.1	3,202.8	3,331.1	3,839.5
Foreign exchange[h] (US$ billion; end period)	2,399.2	2,847.3	3,181.1	3,311.6	3,821.3
Total external debt (US$ billion; end period)	428.6	548.9	695.0	737.0	..
Debt service ratio[i]	2.9	1.6	1.7	1.6	..

.. Not available.

a Estimates.
b Contribution to annual growth in percentage terms. Figures are taken from the National Bureau of Statistics of China, Statistical Yearbook 2013, Table 2-20.
c Registered unemployment in urban areas.
d A positive increase in the real effective exchange rate means an appreciation of Renminbi relative to the other major currencies in the index.
e Including central and local governments.
f Growth rates in merchandise and service trade are based on US$.
g Excluding gold, including SDRs and Reserve Position in the Fund.
h Excluding gold, SDRs and Reserve Position in the Fund.
i Debt service ratio refers to the ratio of the payment of principal and interest of foreign debts to the foreign exchange receipts from foreign trade and non-trade services of the current year.

Source: National Bureau of Statistics of China, Statistical Yearbook (various issues), and press release. Viewed at: http://www.stats.gov.cn/english/PressRelease/201402/t20140224_515103.html; State Administration of Foreign Exchange online information. Viewed at: http://www.safe.gov.cn/wps/portal/english/Data/Payments [29/01/2014]; IMF, International Financial Statistics database; and data provided by the Chinese authorities.

1.2. During the period under review, China continued to implement an active fiscal policy and a prudent monetary policy, attached more importance to "stable growth" by paying more attention to the relationship between growth, structure of the economy and inflation, and actively promoted economic reform.[1]

1.3. Growth in 2012 exceeded the expected target of 7.5% set at the beginning of the year, triggered by strong domestic demand aided by the implementation of active fiscal policies. As was the case in 2011, the main contribution to growth came from consumption (4.2 percentage points), while investment contributed by 3.6 percentage points. From the beginning of 2012, investment growth slowed down. However, as the "stable growth" policies started to take effect, investment growth rebounded gradually after August.[2] For the whole of 2012, gross capital formation increased by 10.6% with respect to the previous year. In 2012, retail sales expanded at an annual rate of more than 14% during the year (12% in real terms). The contribution to GDP growth of net exports was negative, reflecting the strong consumption pattern that led to a substantial increase in imports despite strong export growth.

1.4. In 2013, real GDP expanded also by 7.7% over the previous year. Growth continued to be led by strong domestic demand, although, as at March 2014, there were no detailed figures yet with respect to the contribution to growth of the different GDP components.

1.5. In the context of the current Review, the authorities noted that, to narrow the investment-consumption imbalance, the Chinese Government has continued to promote consumption expansion through specific programmes, such as sales of home appliances, vehicles

[1] People's Bank of China (2013), Annual Report, 2012, pp. 16-17. Viewed at: http://www.pbc.gov.cn/publish/english/957/index.html.
[2] People's Bank of China (2013), Annual Report, 2012, pp. 16-17. Viewed at: http://www.pbc.gov.cn/publish/english/957/index.html.

and motorcycles in the countryside. These programmes, in place since 2009, and which the authorities consider to be important measures to improve people's livelihood and stimulate consumption, were scheduled to be terminated by 31 January 2013, but were rolled over for another year, until 31 January 2014, when they were concluded. Other programmes applied include the subsidy for purchasing agricultural machines, and programmes for the promotion of energy-saving products and autos using new energy. The authorities indicated that they also promoted consumption through development-oriented poverty-reduction programmes, active employment policies, investment in social security, and a structural tax-reduction policy, including lower tariffs (see below). The authorities also mentioned efforts to develop new forms of consumption such as online shopping to promote consumption in service sectors such as tourism, culture and information, and to improve the rural distribution system.

1.6. Reflecting the faster growth of consumption, China's savings-investment gap has continued to decline somewhat during the past few years, falling from 3.7% of GDP in 2010, to 2.6% in 2011 and 2.8% in 2012. Savings continue to represent an equivalent to more than 50% of expenditure, while investment exceeds 47% of GDP. The IMF considers that domestic imbalances remain large and that, although they are not worsening, a decisive shift towards a more consumer-based economy has yet to occur.[3]

1.7. Consumer price inflation declined considerably during the period under review. In 2012, the consumer price index (CPI) increased by 2.6% year-on-year, 2.8 percentage points down compared with the previous year. In 2013, the CPI also increased by 2.6%.

1.8. At a sectoral level, construction has been the fastest growing sector in both 2012 and 2013, with growth rates exceeding 9% in both years. It was followed by services (8%) and industry (which includes manufacturing, mining and electricity) exceeding 7.5% annually (Table 1.2). The primary sector (agriculture, forestry and fisheries) has been growing more modestly, at 4 to 4.5% per year. The value added of the primary sector accounted for 10% of GDP in 2013, industry accounted for 37%, construction for 6.9% and services for 46.1%. The share of the value added of the tertiary sector surpassed that of the secondary sector (industry and construction) for the first time in 2013.

Table 1.2 GDP by sector, 2009-13

	2009	2010	2011	2012	2013[a]
GDP by industry at 1978 indices (annual percentage change)					
Agriculture, forestry and fishing	4.2	4.3	4.3	4.5	4.0
Industry[b]	8.7	12.1	10.4	7.7	7.6
Construction	18.6	13.5	9.7	9.3	9.5
Services	9.6	9.8	9.4	8.1	8.3
Transport, storage and communication	4.2	9.8	9.9	6.8	7.2
Wholesale and retail trade	12.1	14.3	12.6	10.4	10.3
Restaurants and hotels	5.5	10.0	6.6	8.0	5.3
Financial intermediation	18.2	10.0	7.2	10.0	10.1
Real estate	11.3	7.0	6.7	4.1	6.6
Other	7.8	7.9	9.5	7.9	7.7
Share of main sectors in GDP (%)					
Agriculture, forestry and fishing	10.3	10.1	10.0	10.1	10.0
Industry[b]	39.7	40.0	39.8	38.4	37.0
Construction	6.6	6.6	6.8	6.8	6.9
Services	43.4	43.2	43.4	44.6	46.1

[3] The IMF has noted that, while the use of investment, since 2009, to support domestic activity and offset the impact of external shocks, has had positive spillovers to global demand by increasing China's imports, it has exacerbated the domestic imbalance between investment and consumption. See: IMF Country Report No. 13/211, People's Republic of China, 2013 Article IV Consultation, July 2013. Viewed at: http://www.imf.org/external/pubs/ft/scr/2013/cr13211.pdf.

	2009	2010	2011	2012	2013[a]
Transport, storage and communication	4.9	4.8	4.7	4.7	4.8
Wholesale and retail trade	8.5	8.9	9.2	9.5	9.8
Restaurants and hotels	2.1	2.0	1.9	2.0	2.0
Financial intermediation	5.2	5.2	5.3	5.5	5.9
Real estate	5.5	5.7	5.7	5.7	5.9
Other	17.2	16.7	16.6	17.2	17.7

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

Source: National Bureau of Statistics of China, Statistical Yearbook (2013); and Press Release viewed at: http://www.stats.gov.cn/english/PressRelease/201402/t20140224_515103.html.

1.9. At the end of 2013, the number of employed people in China was 769.77 million, and that in urban areas was 382.40 million. The urban unemployment rate registered was 4.05% at year end, slightly lower than the previous year's rate of 4.09%. The total number of migrant workers in 2013 was 268.94 million, up by 2.4% from 2012.[4]

1.1.2 Fiscal policy and structural reform

1.1.2.1 Fiscal policy and related issues

1.10. During the period under review, fiscal policy continued to be accommodative. In particular, China has used infrastructure spending as a countercyclical tool in times of global economic slowdown. The fiscal deficit reached 1.7% of GDP in 2012 and an estimated 1.9% of GDP in 2013. In the last few years, expenditure has been increasing faster than revenue. The level of Central Government debt declined to 14.9% of GDP in 2012 from 15.2% the previous year.

1.11. The authorities consider that the implementation of active fiscal policies has achieved apparent results and thoroughly promoted the sustainable development of China's economy and the adjustment of the economic structure.

1.12. Although Central Government debt is relatively low and has been declining slightly, overall government debt is considerably higher, mainly on account of the debt of local governments. In the context of this Review, the authorities have noted that China's total government debt accounted for 39.4% of GDP by the end of 2012. The IMF has attempted to construct an estimate of government debt including off-budget infrastructure spending, which is considered to be significant, particularly at the local government level, and has found that the augmented fiscal debt has risen to above 45% of GDP and that this augmented fiscal deficit has been more countercyclical than the headline government deficit.[5] The IMF concludes that China has less fiscal space than indicated by conventional general government data and that additional sources of vulnerability include possible contingent liabilities related to the financial sector, state-owned enterprises (SOEs), and actuarial shortfalls in the pension system.

1.13. During the period under review, the authorities launched a number of reforms on the fiscal front, including the exemption from the vehicle purchase tax for some vehicles[6] and the increase in the standard deduction amount to calculate individual income tax; they also lowered import duties on certain goods, and cancelled some administrative charges.[7] The purpose of these changes was to promote consumption.

[4] National Bureau of Statistics of China (2014), Statistical Communiqué of the People's Republic of China on 2013, National Economic and Social Development, 24 February 2014. Viewed at: http://www.stats.gov.cn/english/PressRelease/201402/t20140224_515103.html.
[5] IMF (2013), IMF Country Report No. 13/211, People's Republic of China, 2013 Article IV Consultation, July 2013. Viewed at: http://www.imf.org/external/pubs/ft/scr/2013/cr13211.pdf.
[6] Between 1 January 2012 and 31 December 2015, city public transportation enterprises are exempted from the vehicle purchase tax when acquiring public transportation vehicles. This policy is applicable also to other public service vehicles.
[7] The annual adjustment to import custom duties for 2014 is contained in the 2014 Tariff Implementation Plan of the Customs Tariff Commission of the State Council Circular dated 11 December 2013 (Shuiweihui [2013] No.36). In accordance with the circular, most MFN rates remained unchanged in 2014;

1.14. The reform of the deduction standards for, and the rate structure of, individual income tax was carried out in 2011. The standard deduction for individual income tax on wages and salaries was raised to RMB 3,500/month from RMB 2,000/month; the standard deduction for owners of individual commercial and industrial households and investors of sole proprietary enterprises and partnerships was correspondingly adjusted to RMB 42,000/year (RMB 3,500/month).[8] The number of taxable tiers was decreased from nine to seven and the lowest tax rate was reduced to 3% from 5%.

1.15. The Vehicle and Vessel Tax Law was adopted in February 2011; it adjusted the scope and basis of taxation on vehicles and vessels and the tax amounts, regulated preferential tax policies and enhanced control measures. The State Council promulgated revised Interim Regulations on the Resource Tax on 30 September 2011; the purpose was to improve the tax system, while promoting a more efficient exploration and use of resources, and protecting the environment. The reform entered into force on 1 November 2011; it established a new method for levying resource taxes on crude oil and natural gas based on value rather than on quantity and eliminated the taxation differences based on the origin of the capital of the mining venture. As a result of the reform, the tax treatment of Chinese and foreign oil and gas enterprises has been standardized. The Implementation Rules Concerning the Interim Regulations on the Resource Tax, promulgated on 28 October 2011, set the tax rate applicable to crude oil and natural gas at 5% and revised the tax rates applicable to certain resource categories. The Interim Regulations on Vessel Tonnage Dues were implemented on 1 January 2012, repealing the Provisional Procedures of the Customs of the People's Republic of China Governing the Levying of Vessel Tonnage Dues issued in September 1952. The new rules adjusted tax rates and modified rules on tax deductions and exemptions. The scope of taxation was broadened to all vessels entering the domestic ports of the People's Republic of China from overseas ports, including all Chinese-registered vessels engaged in international voyages.

1.16. In 2011 the authorities also introduced a Pilot Reform Programme for levying housing property tax on personal residential premises, limited to Shanghai and Chongqing, where taxes are levied only on the area exceeding a stipulated surface for each qualifying property. This programme is intended to serve as a foundation for a national housing property tax reform. With the aim of eliminating double taxation and improving the taxation system, the Shanghai authorities launched on 1 January 2012 a pilot programme to replace the business tax with the VAT in the transportation sector and other services. The VAT pilot programme was expanded to Beijing and Jiangsu on 1 September 2012 and extended nationwide as from 1 August 2013. In December 2013, the State Council decided to continue to expand gradually the scope of the VAT pilot programme. Since 1 January 2014, the railway sector and postal services have been included in the VAT pilot programme across China.

1.17. There have been some changes to the central-local government income allocation system. For example, it has been decided that the funds used for VAT export rebates should be paid from the central treasury uniformly, the local income affected by such exemptions and offsets should be transferred to the local treasury from the central treasury in full, and the portions to be shared

a 1% rate was applied on imports of urea, fertilizers, and diammonium hydrogen phosphate. Import quotas at the same rates continued to be applied on 47 HS lines corresponding to commodities. The Circular also specifies the products subject to specific or compound rates. The general tariff rate remained unchanged, while preferences were granted, on: 1,888 tariff headings from Korea, the Republic of, India, Sri Lanka, Bangladesh and Laos (Asia-Pacific Trade Agreement); 7,340 headings for imports originating in Chile (China - Chile Free Trade Agreement); 6,539 tariff lines for goods from Pakistan (China - Pakistan Free Trade Agreement); 7,351 tariff headings for items originating in New Zealand (China - New Zealand Free Trade Agreement); 2,793 tariff lines for imports from Singapore (China - Singapore Free Trade Agreement); 7,117 tariff headings for imports originating in Peru (China - Peru Free Trade Agreement); 7,313 tariff headings for imports originating in Costa Rica (China - Costa Rica Free Trade Agreement); duty-free access for imports of 1,791 tariff headings from Hong Kong, China, 1,312 from Macao, China; and preferential access for imports from 40 least developed countries, including two that graduated from the United Nations list in February 2013 (Vanuatu and Equatorial Guinea). Note: the 2014 full tariff was not available for the current Review. For more information, see: http://www.gov.cn/zwgk/2013-12/16/content_2548712.htm (in Chinese only).

[8] The Individual Income Tax Law has been revised three times with respect to the standard deduction for individual income tax on wages and salaries: the first time to increase it from RMB 800 per month to RMB 1,600 per month, effective 1 January 2006; the second time to increase it from RMB 1,600 per month to RMB 2,000 per month, effective 1 March 2008; and the third time to increase it from RMB 2,000 to RMB 3,500 per month, effective 1 September 2011.

by the local governments should be settled and handed over to the Central Government at the end of each year. However, it was also decided that during the periods of application of the above-mentioned pilot programme the income allocation system would remain the same and the income from VAT in lieu of business taxes would still belong to the local governments. There were also changes to the system of income distribution between central and local railway transportation enterprises. Since 2012 the business tax, urban maintenance and construction tax, and education surcharges payable by railway transportation enterprises are allocated to the local authorities, while income tax payable by railway transportation enterprises and by China Railway Express Co. Ltd. is shared by central and local governments in a proportion of 60 to 40. It was also decided that local governments should share 40% of the business tax and enterprise income tax paid by cross-provincial railway joint ventures (including Dalian-Qinhuangdao Railway), which should be distributed among relevant regions based on such factors as mileage and turnovers. As mentioned above, since 1 January 2014, the railway transportation service has been subject to the VAT, in lieu of the business tax.

1.18. In 2012, the Ministry of Finance, the State Administration of Taxation and the People's Bank of China jointly amended the Measures for the Allocation of the Income Tax Paid by Enterprises with Headquarters and Subsidiaries (Branches) in Different Provinces and Municipalities. According to the authorities, the purpose is to ensure correspondence between benefits and responsibilities on the part of local governments and to minimize the intervention of governments in corporate acts.

1.1.2.2 Structural reform measures

1.19. As part of the process of structural reform, China continues to promote private participation in the economy. The authorities have noted in the context of the present Review that in the past three years, the number of private enterprises and individual industrial and commercial households has been steadily growing; the amount of their registered capital has been rapidly rising; and the average registered capital per enterprise or household has been increasing. By the end of 2011, 9,676,800 private enterprises were registered in China, a 14.4% increase from the previous year; there were also 37,564,700 individual industrial and commercial households, 8.8% up from the previous year. The registered capital of private enterprises reached RMB 25.79 trillion, or RMB 2,67 million per enterprise on average, 34.3% above the level of the previous year; the registered capital of individual industrial and commercial households reached RMB 1.62 trillion, or RMB 43,000 per household on average, 20.8% higher than the previous year on a year-on-year basis. There were 1,215 private companies listed on the Shanghai Stock Exchange at end April 2012; in 2011, these private listed enterprises realized a total operating income of RMB 2.47 trillion.

1.20. At the end of 2011, the domestic private sector had invested RMB 7.6 trillion in fixed assets, and accounted for 58.2% of total national fixed asset investment, 7 percentage points more than that at the end of 2010. Total exports realized nationwide by private enterprises reached RMB 635.29 billion, accounting for 33.5% of total exports. By end 2011, there were 183 million persons working in individual households and private enterprises around China, 11.5% more than at the end of 2010, among which 103.5 million persons were working in private enterprises and 79.5 million were working in individual industrial and commercial households. The authorities consider that private enterprises are currently the main source of employment opportunities and have contributed to rising salaries and income and improved living standards.

1.21. China has continued to apply policies to promote employment during the period under review. China's policy on employment is mainly contained in the Employment Promotion Law adopted in 2008. The authorities have noted that the Government adopts various legal, economic and necessary administrative measures to control unemployment from the source, prevent excessively rapid growth in the numbers of the unemployed, and limit unemployment duration and geographical concentration. In accordance with the Law, the people's governments above the county level shall uniformly coordinate industrial and employment policies and increase employment opportunities by encouraging the development of labour-intensive industries and service industries, supporting small and medium-sized enterprises and encouraging and supporting and guiding the economic development of the private sector. The Law confirms China's policy of encouraging self-employment and the start-up of businesses through tax and administrative charge rebates and exemptions, and the provision of special employment funds to serve as a guarantee for small-amount loans and of interest subsidies for small-amount secured loans for less profitable projects.[9] The State also encourages enterprises to increase employment opportunities and assist the unemployed and the disabled to obtain employment by granting benefits such as preferential taxes, social subsidies and small-amount guaranteed loans to qualified enterprises and personnel.[10] The Law also calls for improving the employment assistance system; strengthening public employment services, including by directing the transfer of the surplus workforce in rural areas; strengthening occupational training; and gradually promoting flexible employment systems as part-time employment.

1.22. In line with the decisions of the CPC Central Committee and the State Council, that finance should serve the real economy, efforts were made to enhance the coordination between credit policy and industrial policies, by speeding up rural financial product and service innovation[11], improving the provision of financial services for small and medium-sized enterprises, by continuing to implement a differentiated housing credit policy[12], and by adopting measures to prevent and alleviate local debt-related risks.[13] To achieve the first goal, the PBC guided financial institutions to intensify financial support to areas such as scientific and technological innovation, emerging industries of strategic importance and the service industry. Financial institutions were guided to extend credit support to key industries and sectors, such as railways, shipping, thermal power and steel, in keeping with credit risk management principles and supporting primarily enterprises that are profitable, comply with requirements on environmental protection and safe production and satisfy prudential credit conditions.[14] Financial institutions were encouraged to use credit products flexibly to enhance support for export-oriented enterprises that were able to attract orders, were profitable and met prudential credit conditions; they were also guided to increase credit and financing support to sectors that promoted energy conservation and emissions reduction. To this end, the CBRC promulgated the Green Credit Guide, urging and guiding banking and financial institutions to enhance their support to the green economy (e.g. recycling and low carbon emission activities) and promote sustainable development based on the principles of controllable risks and

[9] Small-amount guaranteed loans are policy loans provided to qualified personnel who encounter financial difficulties in the course of seeking employment, self-employment or establishing a partnership. They are guaranteed by designated guarantee organizations and disbursed by banks at subsidized interest rates through the Small-Amount Guaranteed Loans Funds set up at the various levels of government.

[10] Enterprises engaging above-average age, long-term unemployed or disabled persons are entitled to social insurance subsidies. Small-amount secured loans are granted to small enterprises based on the number of unemployed or disabled persons recruited with contracts longer than one year; the amount cannot exceed RMB 2 million, and the term of the loan shall not be longer than two years. The Ministry of Finance grants corresponding interest rate subsidies. As per Ministry of Finance and State Administration of Taxation Circular on Preferential Tax Policies for Facilitating the Employment of Disabled Persons (Cai Shui [2007] No. 92, 15 June 2007), enterprises that employ disabled persons are granted partial VAT refund and a reduced business tax. The Circular on Relevant Tax Policies to Support and Promote Employment (Cai Shui [2010] No. 84), grants commercial, processing and service enterprises (with some exceptions) which recruit registered unemployed people for at least a year, business tax, urban maintenance and construction tax, education surtax and enterprise income tax deductions calculated on the basis of the number of people actually recruited in a three-year period. Circular of the Ministry of Finance and the State Administration of Taxation on the Inclusion of the Railway Transport Industry and Postal Service Industry in the Pilot Collection of Value-added Tax in Lieu of Business Tax (Cai Shui [2013] No.106) allows for VAT and other tax deductions with a cap of RMB 8,000 per year, for enterprises in the sector recruiting unemployed persons. The Circular on Policies Concerning Urban Land Use Tax on Entities Employing the Disabled (Caishui [2010] No. 121), allows for urban land use tax reduction or exemption, under certain conditions.

[11] The authorities have noted that innovation is mainly aimed at exploring low-cost rural financial products and service modes. Actions to this end include promoting credit loan products, expanding the scope of collaterals, launching business cooperation between banks and guarantee and insurance institutions, simplifying business procedures, boosting the transparency of the loan examination and approval process and facilitating obtaining loans. They noted that these activities are not subject to government subsidies.

[12] The authorities have noted that this implies that easier conditions shall be applied for loans for self-occupied first homes than for the purchase of secondary homes.

[13] In this respect, the authorities have noted that, as stipulated by the China Banking Regulatory Commission (CBRC), all banking financial institutions must promote risk management and exercise control on loans to local governments. Banks have been instructed to keep constant track of the maturity of these loans, the sources of debt repayment, and the actual repayment and adopt appropriate measures as soon as possible. Banks have also been instructed to control the volume of loans, optimize the structure of existing loans, and reduce risk by implementing stricter standards for new loans. At the same time, they have been guided to attend to financing demands such as qualifying government-subsidized housing and national key projects, and decrease exposure to loans with low cash flow coverage or a high asset-liability ratio.

[14] People's Bank of China (2013), Annual Report 2012. Viewed at: http://www.pbc.gov.cn/publish/english/4133/2013/20130829090453489508948/20130829090453489508948_.html.

sustainable business. Together with the National Development and Reform Commission (NDRC), the China National Tourism Administration (CNTA) and the CBRC, in 2012 the PBC formulated and promulgated the Opinions on Stepping up Financial Support to Facilitate the Rapid Development of the Tourism Industry, requiring financial institutions to support the development of the tourism industry by improving credit management, and developing innovative credit products.

1.23. Under the Opinions of the State Council on Further Supporting the Healthy Development of Small and Micro Enterprises, the PBC must guide financial institutions to enhance support for the development of SMEs, especially small and micro enterprises, and to improve the financial services available to them. A variety of monetary policy instruments, such as differentiated reserve ratio requirements, are used for credit policy implementation. In September 2012, the PBC and CBRC promulgated the Notice on Implementing the Spirit of the CPC Central Committee with Regard to Improving Financial Services and Related Issues, requiring financial institutions to improve the provision of financial services to agriculture, farmers and rural areas, and small and micro enterprises, so as to effectively meet the financing needs of the real economy. As at end 2012, outstanding loans extended to small and micro enterprises by financial institutions (including discounted bills) stood at RMB 11.58 trillion, up 16.6% year-on-year.[15]

1.24. One of the goals of the 12th Five-Year Plan is to establish a low-cost and sustainable payment service system in rural areas to facilitate access to credit for farmers. To this end, in 2012, the PBC expanded the coverage of the payment and clearing network in rural areas by providing that over 70,000 outlets of financial institutions in rural areas should be connected to the PBC's payment and clearing systems, opening the channels for transfer of funds in rural areas. The payment and clearing systems of rural credit cooperatives, rural cooperative banks and rural commercial banks connected nearly 80,000 outlets of rural financial institutions, further expanding the coverage of payment services in rural areas. In 2012, the clearing centres for rural credit cooperatives, rural cooperative banks and rural commercial banks processed 87 million payment and clearing transactions for a total amount of RMB 2 trillion. The PBC also encouraged the use of bank cards in rural areas; at the end of 2012, this service was available in 78% of villages, which had been equipped with the required terminals. The authorities estimate that the use of bank cards could produce savings of as much as RMB 725 million and 290 million hours of work.[16]

1.25. The extension of bank services to farmers has also facilitated the delivery of some direct subsidies related to production and the livelihood of farmers. Starting in 2012, China has offered farmers a number of grants via bank accounts and bank card agents, such as the new rural social pension insurance, the new rural cooperative medical system and various fiscal subsidies related to agriculture, farmers and rural areas for a total of RMB 551.5 billion.

1.26. The authorities have also promoted a more regionally-balanced development strategy. Credit policy was made to play a guiding role in promoting the implementation of the Western Development, Revitalization of Old Industrial Bases in Northeast China, and Rise of Central China strategies. Attention was focused on financial support and services for the development of key areas, so as to promote structural adjustment and make the economies of eastern, central and western areas more complementary. Efforts were also made to promote rational distribution, optimization and upgrading of industries.

1.27. Measures to improve income distribution and expand social security coverage have been put in place. These have included strengthening the implementation of government-subsidized housing projects, setting up a new type of social-endowment insurance for rural residents and non-working urban residents, and increasing government subsidies for the new type of rural cooperative medical system and for the basic medical insurance scheme for urban residents to RMB 240 per person per year in 2012.

1.28. In 2009, China launched a new type of rural old-age insurance pilot programme. In 2011, the urban resident social pension insurance pilot programme was initiated. By July 2012, all country-level municipalities had implemented both new types of pension insurance. In general,

[15] People's Bank of China (2013), Annual Report 2012. Viewed at: http://www.pbc.gov.cn/publish/english/4133/2013/20130829090453489508948/20130829090453489508948_html.

[16] On the assumption that each transaction costs a farmer RMB 10 and four hours of work lost.

the main policy aspects of these two systems, such as the basic principle, system model, ways of raising funds, financial subsidy, and payment structure, are the same. By the end of 2013, 498 million urban and rural residents participated in the new type of insurance schemes; 138 million urban and rural residents over 60 years old were receiving a pension. The Central Government allocated subsidies for RMB 324.5 billion between 2009 and 2013, of which RMB 284.1 billion were allocated to basic pension payments. In February 2014, the Central Government decided to merge these two systems, and to establish a unified urban and rural resident basic old-age system.

1.1.3 Monetary and exchange rate policy

1.1.3.1 Monetary policy

1.29. During the global financial crisis of 2008-2009, the PBC employed moderately loose monetary policy to help stimulate domestic demand through cuts in interest rates and reserve requirements, reduction in foreign exchange sterilization operations, and "window guidance".[17] In 2010, as economic growth recovered and domestic price inflation began to accelerate, the PBC launched a pre-emptive fine-tuning of policies with a forward-looking approach, and in 2011 switched to a more prudent monetary stance. In the first three quarters of 2011, in order to deal with the increasing inflationary pressure and the large foreign exchange inflows, the PBC conducted open market operations, raised deposit reserve ratios six times by 0.5 percentage points each time, and the benchmark interest rates for deposits and loans three times, strengthened liquidity management and guided money and credit to grow more moderately. After September 2011, as global economic recovery became more uncertain, economic growth witnessed a slowdown, and inflationary pressures declined, the PBC took pre-emptive fine-tuning measures such as suspending the issuing of three-year central bank notes, injecting liquidity through reverse repo and central bank notes purchases, reducing the statutory deposit reserve ratio by 0.5 percentage points, making the differential reserve dynamic adjustment mechanism play a countercyclical role, and increasing credit.

1.30. In the first months of 2012, as a result of a slowdown in domestic economic growth and a decline in price increases, the PBC fined-tuned its policy stance accordingly. To this end, it: conducted two-way open market operations; lowered the deposit reserve ratio twice by 0.5 percentage points each time; lowered the benchmark interest rates on deposits and loans twice (the one-year benchmark interest rate for deposits was reduced by 0.5 percentage points in total and the one-year benchmark interest rate for loans was reduced by 0.56 percentage points in total); enlarged the fluctuation range of interest rates on deposits and loans (the upper limit of the fluctuation range of deposit interest rates of financial institutions was adjusted to 1.1 times the benchmark interest rate, and the lower limit of the fluctuation range of loan rates was adjusted to 0.7 times the benchmark interest rate); and made use of the dynamic adjustment mechanism of differing reserves to promote money and credit growth. In the second half of 2012, the PBC conducted reverse repos successively so as to maintain a "reasonable" liquidity level and stable market interest rates.

1.31. During 2013, a number of monetary policy changes were introduced, including further steps on interest rate liberalization, which now allow financial institutions to freely determine their lending rates, and the establishment of Short-Term Liquidity Operations (SLO) and a Standing Lending Facility (SLF); some of these changes may have an impact on trade due to their effect on exchange rate markets and on the availability, and cost of credit. The main ones are:

- in January 2013, the PBC announced the launch of SLO as a supplement to regular open market operations;
- also in January, the PBC launched the SLF as an instrument to provide liquidity support to financial institutions;

[17] Through its "window guidance" policy, the PBC guides financial institutions to enhance financial support to key sectors such as agriculture, rural areas, farmers and small and micro businesses. The authorities have noted that this policy aims at strengthening its communications with financial institutions, by providing them with information regarding macro-economic and industry developments, and reminding them of the financial risks in key sectors rather than intervening in the specific credit allocation of financial institutions. In recent years, the PBC has strengthened its "window guidance".

- on 22 January 2013, the PBC issued the Notice on Strengthening Liquidity Management of Local Financial Institutions With Legal Person Status and Enabling Central Bank Short-term Lending to Play a Greater Role in Supplying Liquidity (PBC Document [2013] No. 22). PBC branch offices are to promote the recourse of local financial institutions to central bank short-term lending to finance short-term liquidity shortages;
- clearing agreements with financial institutions in Chinese Taipei and Singapore were reached to settle cross-border RMB transactions;
- in February, the PBC issued the Opinions on Strengthening Credit Operations for 2013 (PBC General Administration Department Document [2013] No. 26), urging PBC branch offices and banking financial institutions to enhance financial services to the agricultural sector, rural areas farmers, SMEs and social and employment projects;
- on 1 March 2013, the China Securities Regulatory Commission (CSRC), the PBC, and the SAFE jointly issued the Trial Measures on Securities Investment by RMB Qualified Foreign Institutional Investors on the Domestic Market;
- on 13 March 2013, the PBC issued the Notice on Issues Related to Investments in the Interbank Bond Market by Qualified Foreign Institutional Investors (QFIIs) (PBC Document [2013] No. 69), allowing QFIIs to apply to the PBC for access to the interbank bond market;
- on 25 April 2013, the PBC issued the Notice on Issues Concerning Pilot Securities Investment Programme by RMB Qualified Foreign Institutional Investors on the Domestic Market (PBC Document [2013] No. 105);
- on 5 May 2013, the SAFE issued the Notice of the State Administration of Foreign Exchange on Strengthening Administration of Foreign Capital Inflows (SAFE Document [2013] No. 20) in order to strengthen the position of banking institutions in terms of the purchase and surrender of foreign exchange, and payments of import and export firms;
- on 28 June 2013, to implement the decision of the State Council on stepping up financial support for structural adjustment and upgrading and to guide credit funds to further support the real economy, the PBC decided to increase the quota of central bank discount funds by RMB 12 billion, to provide liquidity to financial institutions and to support institutions in increasing their credit lines to small and micro enterprises and to the agricultural sector, rural areas, and farmers;
- on 9 July 2013, the PBC issued the Notice on Simplifying the Procedures for Cross-Border RMB Business and Improving Relevant Policies (PBC Document [2013] No. 168), which simplified cross-border RMB business procedures under the current account, and standardized overseas RMB loan and guarantee procedures by domestic non-financial institutions;
- on 20 July 2013, the PBC decided to remove controls over interest rates on loans offered by financial institutions. The lending-rate floor, which was 70% of the benchmark lending rate, was removed and financial institutions are now free to determine their lending rates based on commercial principles. Controls over the interest rates charged to discount bills were removed, eliminating the system of adding basis points to the central bank discount rate. The lending-rate ceiling for rural credit cooperatives was removed;
- on 25 July 2013, commercial banks began to issue Basel-III tier-two capital bonds on the interbank market to satisfy the supplementary capital demands of commercial banks;
- on 27 August 2013, the PBC issued Public Announcement No. 12 to strengthen the clearing requirements for Delivery Versus Payment (DVP) on the interbank bond market, so as to prevent market risk and enhance efficiency;
- on 23 September 2013, the PBC issued the Notice on Issues Concerning the RMB Settlement Business of Investments in Domestic Financial Institutions by Overseas Investors (PBC Document [2013] No. 225) to standardize the use of the RMB settlement business by overseas investors for their investments in the establishment, merger and acquisition, and holdings of equity in financial institutions in China;
- on 24 September 2013, the Guidelines for the Self-Regulatory Pricing Mechanism of Market-Based Interest Rates[18] and the Rules for the Loan Prime Rate (LPR) Centralized Quotation and Release Mechanism, were approved;
- on 25 October 2013, the LPR centralized quote and release mechanism formally entered into operation. The LPR is the preferential lending rate offered by a commercial bank

[18] The self-regulatory pricing mechanism for market interest rates among financial institutions, aims to apply self-regulatory management of interest rates that are independently determined by financial institutions on the money, credit, and other financial markets, under the precondition that they comply with the relevant interest-rate regulations.

to its prime clients, and provides a reference to financial institutions for the pricing of their credit products;

- on 30 October 2013, the CSRC and the CBRC jointly issued the Guide on Issuance of Corporate Bonds by Commercial Banks, which explored diversified channels for commercial banks to raise capital funds;
- on 1 November 2013, the PBC issued the Notice on Issues Related to the Expansion of the Pilot Reform Programme of the Rural Financial Business Division of the Agricultural Bank of China (PBC Document [2013] No. 263), which added 538 county-level sub-branches of the ABC in Jiangsu, Zhejiang, Hunan, Yunnan, Jiangxi, Shanxi, and Guangdong provinces to the pilot scheme and renewed the preferential measures applied under it, such as the differentiated reserve ratio requirement, the supervisory fee reduction or exemption, and the business tax reduction or exemption;
- on 8 December 2013, the PBC issued the Provisional Rules on the Management of Interbank Certificates of Deposit (PBC Public Announcement [2013] No. 20) to regulate the business of interbank certificates of deposit, broaden the financing channel for deposit-taking banking and financial institutions, and promote the development of the money market;
- on 27 December 2013, financial bonds were allowed to be issued across different markets;
- on 1 March 2014, the PBC removed the upper interest rate limit for small-amount foreign currency deposits within the China (Shanghai) Free Trade Pilot Zone.

1.32. Money supply M2 grew by 13.6% in 2011, 6.1 percentage points less than in the previous year. The balance of loans in RMB grew by 15.8% and stood at RMB 7.47 trillion, down RMB 390.1 billion from the previous year-on-year. Total social financing stood at RMB 12.83 trillion, down RMB 1.11 trillion from 2010. At the end of 2012, the growth of M2 reached 13.8% year-on-year and RMB loans expanded by 15% to RMB 8.2 trillion, while total social financing stood at RMB 15.76 trillion, slightly over 30% of GDP. At end-2013, broad money (M2) stood at RMB 110.65 trillion (194.5% of GDP), increasing by 13.6% year-on-year. Outstanding RMB and foreign currency loans totalled RMB 76.63 trillion (135% of GDP), up 13.9% year-on-year. Outstanding RMB loans rose by 14.1% year-on-year to RMB 71.90 trillion (126.4% of GDP). Outstanding foreign currency loans registered US$776.9 billion, up 13.7% year-on-year. Also at end-2013, the outstanding amount of RMB and foreign currency deposits reached RMB 107.06 trillion, up 13.5% year-on-year, and represented a staggering 188% of GDP. RMB deposits were RMB 104.38 trillion (up 13.8%), with a strong increase of household deposits and deposits of non-financial enterprises. At end-2013, the outstanding amount of foreign currency deposits was US$438.6 billion, up 7.9% year-on-year.[19]

1.33. The monthly weighted average interbank lending rate for December 2013 stood at 4.16%, up 1.55 percentage points from the same period a year earlier and the monthly weighted average interest rate on bond-pledged repos was 4.28%, 1.66 percentage points above the rate in the same period a year earlier. Lending, spot trading and bond repo transactions in the interbank RMB market totalled RMB 235.29 trillion in 2012. Official foreign exchange reserves stood at US$3.82 trillion. The average RMB exchange rate was RMB 6.1932 per U.S. dollar in 2013.

1.34. The IMF has recommended that the Chinese authorities take further steps towards a more commercially oriented financial system and market-based monetary policy framework. Recognizing that notable progress has already been made with interest rate liberalization, they encourage China to take further measures, such as increasing the upward float with respect to maximum deposit rates. The IMF also recommended stepping up supervision and regulation as financial reform progresses and interest rates are liberalized, using interest rates as the primary instrument of monetary policy and introducing deposit insurance.[20]

1.1.3.2 Exchange rate policy

1.35. The PBC maintains a "managed floating" exchange rate regime, taking a basket of currencies as reference. In June 2010, China began a reform of the RMB exchange rate

[19] People's Bank of China (2014), Highlights of China's Monetary Policy in 2013. Viewed at: http://www.pbc.gov.cn/image_public/UserFiles/english/upload/File/2013年货币政策大事记.pdf.

[20] IMF (2013), IMF Country Report No. 13/211, People's Republic of China, 2013 Article IV Consultation, July 2013. Viewed at: http://www.imf.org/external/pubs/ft/scr/2013/cr13211.pdf.

mechanism with a view to gaining more flexibility. The authorities state that since 2011 the PBC has taken further steps to enhance the flexibility of the RMB exchange rate, while preventing large fluctuations and maintaining the exchange rate around its equilibrium level. In April 2012, the fluctuation band range of the RMB/US$ exchange rate in the interbank spot foreign exchange market was enlarged from 0.5% to 1%. In March 2014, the band was again enlarged, from 1% to 2%.

1.36. Since the launching of the exchange rate reform in 2005 and up to end-2013, the RMB has experienced a substantial appreciation, both in nominal and in real terms. The central parity of the RMB/US$ exchange rate was up 35.8% during this period, while the central parity of the RMB/€ exchange rate was up 19%, and the central parity of the RMB/JPY was up 26.5%. According to information provided by the authorities, based on calculations by the Bank for International Settlements, the nominal effective RMB exchange rate was up 32.1% and the actual effective RMB exchange rate was up 43.2% between the launching of the exchange rate reform in 2005 and end-2013.

1.37. In the course of the present Review, the authorities noted that the reform of the exchange rate formation mechanism has had a positive impact on the real economy. They consider that exchange rate fluctuations provide a driving force for pushing forward industrial upgrading and enhancing the opening up of China. More exchange rate flexibility has contributed to the rapid development of the foreign exchange market. More flexibility has also contributed to increase the awareness and ability of enterprises to cope with exchange rate risks as well as to correct foreign imbalances. A more flexible exchange rate, reflecting more closely the economy's fundamentals has promoted import consumption and the current account of the balance of payments surplus has been shrinking over the years, to some 2% of GDP in 2013 (see below). Total trading on the inter-bank foreign exchange reached US$7.51 trillion in 2013, up 72% from 2010.[21]

1.38. In a most recent public evaluation of China's exchange rate, IMF Directors considered that a more market-based exchange rate system would facilitate further internal and external rebalancing. They expressed their support of the authorities' policy of restraining foreign exchange intervention, thereby allowing market forces to play a greater role in exchange rate determination.[22]

1.1.4 Balance of payments

1.39. China's traditional surplus in the current account of the balance of payments reflects the surplus of national savings over domestic investment. Economic growth became more domestic-demand driven during the period under review, and this has translated into a lower surplus in the current account of the balance of payments. The surplus shrank considerably between 2010 and 2011 mainly on account of a sharp increase in imports of services, but also of merchandise, and due to a deterioration of the income balances (Table 1.3). In 2012, the trade balance surplus recovered due to a strong increase in merchandise exports, which exceeded that of imports. This trend was reinforced in 2013, with the merchandise trade surplus reaching US$359.9 billion. Although this was a record surplus, its share of GDP - 3.9% - was lower than the 4.3% recorded in 2010. The ratio of the current account surplus to GDP also dropped from 4% in 2010 to 1.9% in 2011, 2.3% in 2012, and 2% in 2013.

Table 1.3 Balance of payments, 2009-13

(US$ million)

	2009	2010	2011	2012	2013
Current account	243,257	237,810	136,097	215,392	182,807
Goods and services balance	220,130	223,024	181,904	231,845	235,380
Trade balance	249,511	254,180	243,549	321,595	359,890
Exports	1,203,798	1,581,417	1,903,821	2,056,887	2,218,977
Imports	954,287	1,327,238	1,660,272	1,735,292	1,859,087
Service balance	-29,380	-31,156	-61,645	-89,750	-124,510

[21] Spot trading closed at US$4.07 trillion in 2013, up 33.8% from 2010; forward trading reached US$32.4 billion, down 0.9% from 2010; swap trading reached US$3.4 trillion, up 165% from 2010.

[22] IMF (2013), IMF Country Report No. 13/211, People's Republic of China, 2013 Article IV Consultation, July 2013. Viewed at: http://www.imf.org/external/pubs/ft/scr/2013/cr13211.pdf.

	2009	2010	2011	2012	2013
Exports	129,476	162,165	186,009	191,430	206,018
Transportation	23,569	34,211	35,570	38,912	37,646
Travel	39,675	45,814	48,464	50,028	51,664
Imports	158,856	193,321	247,654	281,180	330,528
Transportation	46,574	63,257	80,445	85,862	94,324
Travel	43,702	54,880	72,585	101,977	128,576
Income	-8,533	-25,899	-70,318	-19,887	-43,839
Credit	108,251	142,424	144,268	167,037	185,505
Compensation of employees	9,209	13,636	16,568	17,066	17,790
Investment income	99,041	128,788	127,699	149,971	167,715
Debit	116,783	168,324	214,585	186,924	229,344
Compensation of employees	2,052	1,455	1,618	1,788	1,714
Investment income	114,732	166,868	212,967	185,136	227,630
Current transfers	31,659	40,686	24,511	3,434	-8,733
Credit	42,645	49,521	55,570	51,167	53,162
General government	906	1,187	16	863	1,124
Other sectors	41,740	48,334	55,554	50,304	52,037
Debit	10,986	8,835	31,060	47,733	61,895
General government	2,663	2,665	3,353	3,961	4,237
Other sectors	8,324	6,170	27,706	43,772	57,658
Capital and financial account	198,470	286,865	265,470	-31,766	326,203
Capital account	3,939	4,630	5,446	4,272	3,052
Financial account	194,531	282,234	260,024	-36,038	323,151
Direct investment	87,167	185,750	231,652	176,250	184,972
China's direct investment abroad	-43,890	-57,954	-48,421	-64,963	-73,244
Direct investment in China	131,057	243,703	280,072	241,214	258,216
Portfolio investment	27,087	24,038	19,639	47,779	60,547
Assets	-2,526	-7,643	6,248	-6,391	-5,353
Equity securities	-40,647	-8,429	1,104	2,029	-2,531
Debt securities	38,121	787	5,144	-8,420	-2,822
Liabilities	29,613	31,681	13,391	54,170	65,900
Equity securities	29,117	31,357	5,308	29,903	32,595
Debt securities	496	324	8,083	24,267	33,305
Other investment	80,276	72,446	8,733	-260,068	77,633
Assets	18,414	-116,262	-183,604	-231,680	-136,529
Trade credits	-34,271	-61,635	-70,958	-61,812	-60,266
Loans	3,095	-21,041	-45,275	-65,332	-31,947
Currency and deposits	2,035	-58,013	-115,531	-104,789	-2,014
Other assets	47,555	24,428	48,160	253	-42,302
Liabilities	61,862	188,708	192,338	-28,388	214,162
Trade credits	32,082	49,515	38,027	42,326	44,937
Loans	7,066	79,105	105,061	-16,784	93,443
Currency and deposits	11,575	60,347	48,283	-59,376	75,762
Other liabilities	11,138	-259	966	5,447	21
Net errors & omissions	-41,383	-52,936	-13,766	-87,074	-77,631
Balance of payments	400,344	471,739	387,801	96,552	431,379

Source: State Administration of Foreign Exchange online information. Viewed at: http://www.safe.gov.cn.

1.40. The total amount of balance of payments transactions in 2012 was US$7.5 trillion, 6% higher year-on-year, and equivalent to 91% of GDP. Trade in goods and services increased by 7%, while international direct investment (including FDI and ODI) decreased by 2%.[23] At the end of 2012, China's balance of foreign exchange reserves reached US$3,311.6 billion, while the level of reserves reached US$3,821.3 billion at the end of 2013.

1.41. Currently, the RMB is fully convertible for current account transactions, and partly convertible for some capital account transactions. Since 2011 all residents and non-residents can use RMB for FDI. In the 12th Five-Year Plan, the Chinese Government put forth a policy

[23] People's Bank of China (2014), Highlights of China's Monetary Policy in 2013. Viewed at: http://www.pbc.gov.cn/image_public/UserFiles/english/upload/File/2013年货币政策大事记.pdf.

of "gradually making the RMB convertible for capital account transactions". The Plan does not establish a sequence for capital account liberalization. The authorities indicated that they expect that the gradual liberalization of the capital account and of interest rate determination will reinforce each other and lead to a market-determined exchange.

1.42. In the course of the current review, the authorities have stressed that China will continue to proactively and steadily push forward the RMB convertibility for capital account transactions. This is intended to further facilitate the operations of enterprises' "going global" and to "advance the internationalization of China's capital market. The authorities indicated that China will enhance the degree of RMB convertibility for some short-term capital account transactions, establish a foreign debt and capital flow management system, improve its risk control system, improve cross-border capital flow monitoring, and implement an early-warning system.

1.43. During the period under review, the authorities took a number of steps to liberalize the capital account. In 2011, China launched the RMB Qualified Foreign Institutional Investors (RQFIIs) system and raised the total RQFII quota several times. The current (2014) RQFII (total) quota is RMB 500 billion. Before March 2013, only Hong Kong, China subsidiaries of eligible fund management and securities companies were allowed to participate in the RQFII scheme. Since then, the scope has been broadened to include fund management companies, securities companies, commercial banks, insurance companies, and all institutions registered in and operated from Hong Kong, China. By end 2013, 61 RQFIIs had been approved with a cumulative approved investment quota of RMB 157.5 billion. Changes were introduced to the QFII, lifting the restrictions on the number of capital accounts QFII clients could hold. By end 2013, 228 QFIIs with a domestic securities investment quota of US$49.7 billion and 115 Qualified Domestic Institutional Investors (QDIIs) with an offshore securities investment quota of US$84.3 billion had been approved.[24] In 2012, China removed the restrictions it placed on the opening of foreign exchange accounts and the use of capital. It has also applied a policy of supplying foreign exchange according to demand for offshore direct investments. Other measures include: as of 2011, granting RMB loans to Chinese-invested enterprises with their foreign exchange earnings as guarantee; enlarging the pilot areas where offshore guarantees are accepted for Chinese-invested enterprises' offshore loans; issuing foreign exchange regulations in 2012 to facilitate the participation of Chinese companies and individuals in the purchase of stock of offshore-listed companies; removing, in 2013, the approval formalities for holding foreign debt accounts, for the withdrawal and payment of the principal and interest on foreign debts, and for the foreign debt exchange settlement of foreign-invested enterprises.

1.44. Pilot capital liberalization measures (under the precondition that the risk is controllable) are currently being tried in the China (Shanghai) Pilot Free Trade Zone (CSPFTZ), which started operations in August 2013 (see section 2.3.4). In accordance with the Policies and Measures on the Capital Market for Supporting and Promoting the China (Shanghai) Pilot Free Trade Zone, issued on 29 September 2013, foreign investors may participate in domestic futures trading, qualified entities and individuals in the CSPFTZ may make investments in foreign and domestic securities and futures markets, and foreign parents of enterprises in the CSPFTZ may issue RMB bonds in domestic markets, among others.

1.45. In the course of the present Review, the authorities noted that they expect liberalization will allow markets to play their basic role in allocating resources and promote the adjustment of China's economic structure, eliminating balance of payments restrictions. They also noted that as the scale and fluctuation of cross-border capital flows will grow with liberalization, China must constantly strengthen its prudential regulatory framework, and improve monitoring and early-warning mechanisms.

1.46. In a recent assessment of China's capital account liberalization, the IMF noted that China has gradually widened the scope for capital flows, but the non-FDI capital account remains subject to considerable restrictions. Portfolio investment is controlled by quotas, as mentioned previously, and can only be done through QFIIs; foreign borrowing is subject to a ceiling (for short-term borrowing) or approval requirements (for long-term borrowing), but lending abroad by banks and affiliated companies is largely unrestricted. The holding of cross-border accounts

[24] Portfolio inward investment is channelled through QFIIs and subject to at least a three-month lock-in period for most shares and an overall ceiling of US$80 billion. Outward portfolio investment is channelled through QDIIs, subject to a ceiling of US$90 billion. Cross-border issuance of securities requires approval.

requires SAFE approval.[25] The IMF also notes that despite the controls, capital flows have been considerable, with inflows and outflows of short-term borrowing on the order of 10% of GDP.

1.2 Developments in Trade and Foreign Direct Investment

1.2.1 Merchandise trade

1.47. China has become the world's largest trader (excluding intra-EU trade). During the period under review, both exports and imports of goods expanded rapidly, with exports totalling US$2.21 trillion in 2013, 40% higher than in 2010. The share of merchandise exports of GDP, has, however, declined during the period under review, from 26.7% of GDP in 2010 to 24% in 2013. Imports of merchandise totalled US$1.95 trillion in 2013, up 39.69% from 2011. Imports represented 21.3% of GDP in 2013, down from 23.7% in 2010. China's net trade surplus stood at 2.8% of GDP in 2013, down from 3.1% in 2010, due mainly to the relative lower weight of GDP represented by both exports and imports, as domestic demand has become the main force behind growth. In the context of the review, the authorities emphasized that China is promoting the balanced development of foreign trade through consumption-friendly policies to expand domestic demand and hence imports, while stabilizing exports. The real appreciation of the RMB is also expected to support these developments.

1.48. In 2013, manufactured products remained the dominant component of China's exports, accounting for 94% of the total (Table A1.1). Among manufactured products, office machines and telecommunication equipment and textiles and clothing continued to be China's main exports (Chart 1.1). Agricultural exports account for only slightly more than 3% of the total. Exports under "processing trade" (under which enterprises import inputs, assemble them in bonded areas, and export the assembled products) accounted for 39.6% of total trade in 2010, down from 44% in 2011. Manufactures accounted for 58% of China's imports in 2013. China's main manufacturing imports include office machines and telecommunication equipment, and chemicals (Table A1.2). Fuels and other mining products accounted for almost 30% of China's imports in 2013, while imports of agricultural products accounted for some 8% of the total. In 2013, imports under processing trade accounted for 25.5% of China's total merchandise imports, down from 26.9% in 2011.

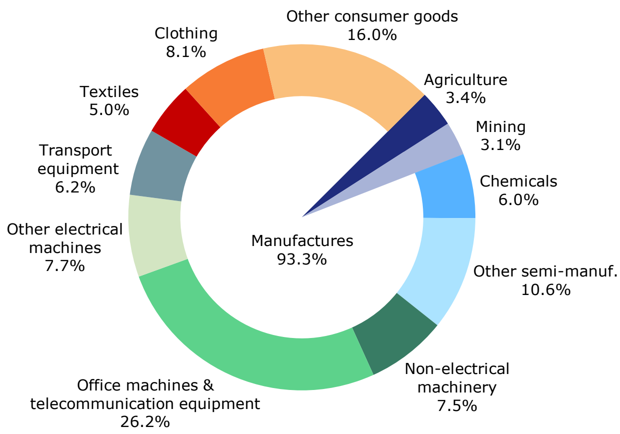
1.49. In 2013, the main destinations for China's merchandise exports remained the EU, the United States, Hong Kong, China, Japan, and Korea, the Republic of (Chart 1.2), as well as ASEAN countries (Table A1.3). The main sources of its imports were the EU, Korea, the Republic of, Japan, Chinese Taipei, the United States, and Australia, as well as ASEAN countries (Table A1.4).

[25] IMF Country Report No. 13/211, People's Republic of China, 2013 Article IV Consultation, July 2013. Viewed at: http://www.imf.org/external/pubs/ft/scr/2013/cr13211.pdf.

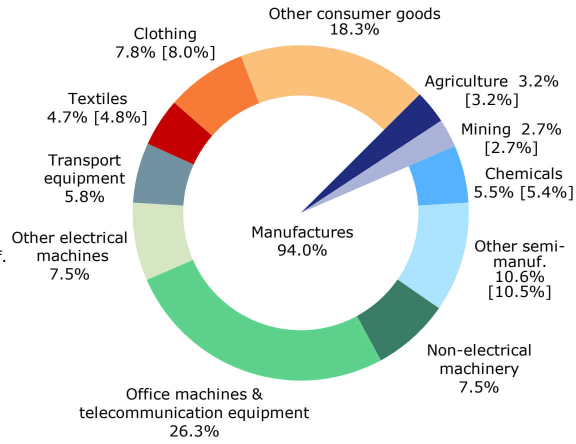
Chart 1.1 Product composition of merchandise trade, 2011 and 2012

2011 **2012**

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

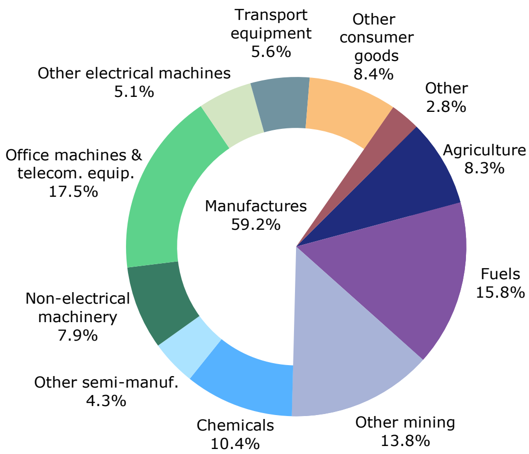


Total: US$1,898.4 billion

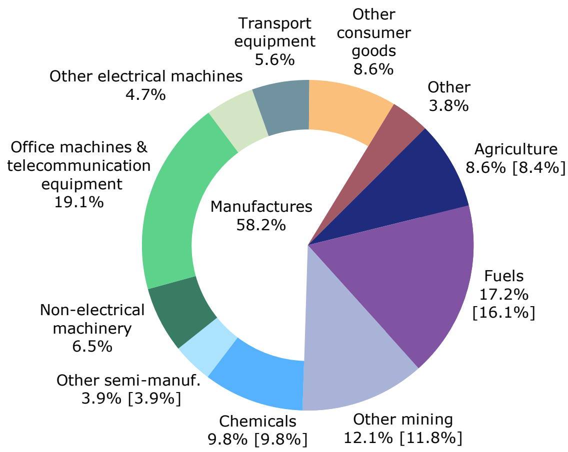


Total: US$2,048.8 billion
[US$2,210.0 billion]

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



Total: US$1,743.4 billion



Total: US$1,818.2 billion
[US$1,950.3 billion]

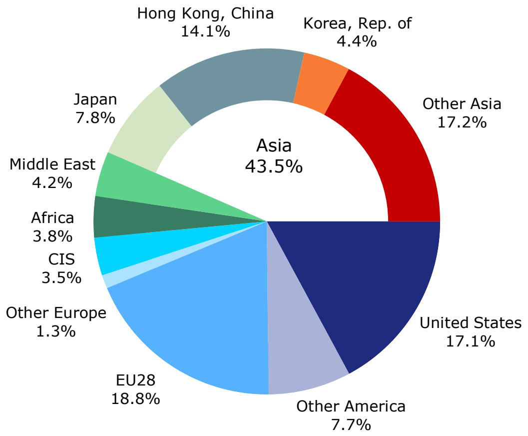
Note: Data in square brackets correspond to 2013 figures.

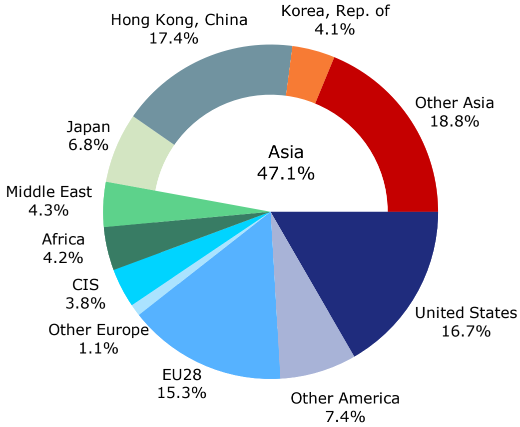
Source: UNSD, Comtrade database (SITC, Rev.3) and General Administration of Customs [2013], China's Customs Monthly Exports and Imports, 12, Series No. 292.

Chart 1.2 Direction of merchandise trade, 2011 and 2013

2011 | **2013**

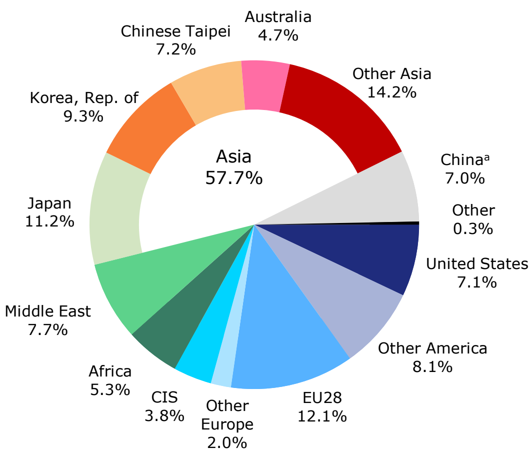
(a) Exports (f.o.b.)

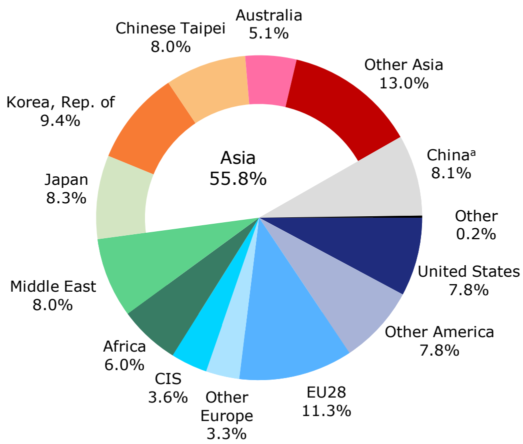




Total: US$1,898.4 billion | **Total: US$2,210.0 billion**

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





Total: US$1,743.4 billion | **Total: US$1,950.3 billion**

a Includes goods that have been exported from China and thereafter reimported into China.

Source: UNSD, Comtrade database and General Administration of Customs (2013), China's Customs Statistics: Monthly Exports & Imports, 12, Series No. 292.

1.2.2 Trade in services

1.50. In 2013, services represented 8.7% of China's total exports (merchandise and services trade) and 14.4% of its imports. During the period under review, imports of services became more important as a component of total imports. China's exports of insurance and other business services advanced their share of the total, while transportation, travel, computer and information services lost share in 2013. Among imports, travel gained considerable market share, accounting for 39.1% of total imports. Transportation is another important item among services imports, accounting for 28.7% of the total (Table 1.4).

Table 1.4 Composition of trade in services, 2009-13

(US$ million and %)

	2009	2010	2011	2012	2013
Total credit (US$ million)	129,476	162,165	186,009	191,430	206,018
	% of total credit				
Transportation	18.2	21.1	19.1	20.3	18.3
Travel	30.6	28.3	26.1	26.1	25.1
Communication	0.9	0.8	0.9	0.9	0.8
Construction	7.3	8.9	7.9	6.4	5.2
Insurance	1.2	1.1	1.6	1.7	1.9
Financial services	0.3	0.8	0.5	1.0	1.5
Computer & information	5.0	5.7	6.5	7.6	7.5
Royalties & licence fees	0.3	0.5	0.4	0.5	0.4
Consulting services	14.4	14.0	15.3	17.5	19.7
Advertising & public opinion polls	1.8	1.8	2.2	2.5	2.4
Audio-visual and related services	0.1	0.1	0.1	0.1	0.1
Other business services	19.1	16.4	19.1	14.8	16.5
Government services	0.7	0.6	0.4	0.5	0.6
Total debit (US$ million)	158,856	193,321	247,654	281,180	330,528
	% of total debit				
Transportation	29.3	32.7	32.5	30.5	28.5
Travel	27.5	28.4	29.3	36.3	38.9
Communication	0.8	0.6	0.5	0.6	0.5
Construction	3.7	2.6	1.5	1.3	1.2
Insurance	7.1	8.1	8.0	7.3	6.7
Financial services	0.4	0.7	0.3	0.7	1.1
Computer & information	2.0	1.5	1.6	1.4	1.8
Royalties & licence fees	7.0	6.7	5.9	6.3	6.4
Consulting services	8.4	7.8	7.5	7.1	7.1
Advertising & public opinion polls	1.2	1.1	1.1	1.0	0.9
Audio-visual and related services	0.2	0.2	0.2	0.2	0.2
Other business services	11.8	8.9	11.2	7.0	6.2
Government services	0.5	0.6	0.4	0.4	0.4

Source: MOFCOM online information. Viewed at: http://www.mofcom.gov.cn/article/ae/ai/201402/20140200485297.shtml, and http://tradeinservices.mofcom.gov.cn/a/2014-02-19/233341.shtml.

1.2.3 Foreign direct investment

1.51. As mentioned above, the Government is trying to facilitate FDI inflows through the removal of restrictions, such as the revision of its Investment Catalogue and by simplifying procedures, including by eliminating verification requirements in a number of cases (sections 2.5.1 and 2.5.2) It also seeks to attract further FDI through a number of incentive schemes (section 2.5.3) and through the more liberal rules applied to the CSPFTZ (section 2.5.4).

1.52. Reflecting the large size of its market, and its increasing openness, China remained one of the largest recipients of FDI in the world during the period under review. However, in 2012, FDI inflows slowed down somewhat, although they recovered in 2013, when China attracted US$117.6 billion of FDI, up 1.4% from 2011. The main sectors attracting FDI are manufacturing (38.7%) of the total in 2013, real estate (24.5%), wholesale and retail trade (9.8%) and leasing and business services (8.8%) (Table 1.5).

Table 1.5 Inward foreign direct investment by sector, 2011-13

	2011		2012		2013		
	Number of projects	Amount of foreign capital actually used (US$ million)	Number of projects	Amount of foreign capital actually used (US$ million)	Number of projects	Amount of foreign capital actually used (US$ million)	% of total FDI
Total	27,712	116,011.0	24,925	111,716.1	22,773	117,586.2	100.0
Agriculture, forestry and fisheries	865	2,008.9	882	2,062.2	757	1,800.0	1.5
Mining	87	612.8	53	770.5	47	365.0	0.3
Manufacturing	11,114	52,100.5	8,970	48,866.5	6,504	45,555.0	38.7
Production and distribution of electricity, gas and water	214	2,118.4	187	1,639.0	200	2,429.1	2.1
Construction	215	916.9	209	1,181.8	180	1,219.8	1.0
Transport, storage and post	413	3,190.8	397	3,473.8	401	4,217.4	3.6
Information transmission, computer and software	993	2,699.2	926	3,358.1	796	2,880.6	2.4
Wholesale and retail trade	7,259	8,424.6	7,029	9,461.9	7,349	11,511.0	9.8
Hotels and catering service	513	842.9	505	701.6	436	771.8	0.7
Financial intermediation	156	1,909.7	282	2,119.5	509	2,330.5	2.0
Real estate	466	26,881.5	472	24,124.9	530	28,798.1	24.5
Leasing and business service	3,518	8,382.5	3,229	8,211.1	3,359	10,361.6	8.8
Scientific research, technical services and geological prospecting	1,357	2,457.8	1,287	3,095.5	1,241	2,750.3	2.3
Water conservancy, environment and public facilities	151	864.3	122	850.3	107	1,035.9	0.9
Other	391	2,600.2	375	1,799.8	357	1,560.3	1.3

Source: Data provided by the Chinese authorities.

1.53. Hong Kong, China continues to be, by far, the main source of FDI to China, accounting for 62.4% of total FDI in 2013. It is followed by Singapore, Japan, the EU, the British Virgin Islands, Korea, the Republic of, the United States, and Chinese Taipei (Table 1.6).

Table 1.6 Inward foreign direct investment by origin, 2011-13

	2011		2012		2013		
	Number of projects	Amount of foreign capital actually used (US$ million)	Number of projects	Amount of foreign capital actually used (US$ million)	Number of projects	Amount of foreign capital actually used (US$ million)	% of total FDI
Total	27,712	116,011.0	24,925	111,716.0	22,773	117,586.2	100.0
Hong Kong, China	13,889	70,500.2	12,604	65,561.2	12,014	73,396.7	62.4
Singapore	740	6,096.8	698	6,305.1	731	7,228.7	6.1
Japan	1,859	6,329.6	1,579	7,351.6	943	7,058.2	6.0
EU (27)	1,665	5,267.0	1,607	5,348.3	1,446	6,517.9	5.5

	2011		2012		2013		
	Number of projects	Amount of foreign capital actually used (US$ million)	Number of projects	Amount of foreign capital actually used (US$ million)	Number of projects	Amount of foreign capital actually used (US$ million)	% of total FDI
British Virgin Islands	758	9,725.0	572	7,830.9	501	6,158.6	5.2
Korea, the Republic of	1,375	2,551.1	1,306	3,038.0	1,371	3,054.2	2.6
United States	1,426	2,369.3	1,301	2,598.1	1,061	2,819.9	2.4
Chinese Taipei	2,639	2,183.4	2,229	2,847.1	2,017	2,087.7	1.8
Samoa	476	2,076.2	418	1,743.7	393	1,858.1	1.6
Cayman Islands	135	2,242.0	110	1,975.4	87	1,668.3	1.4
Mauritius	89	1,139.2	48	958.7	27	910.3	0.8
Other	2,661	5,531.0	2,453	6,158.0	2,182	4,827.6	4.1

Source: Data provided by the Chinese authorities.

1.54. During the period under review, China has reinforced its role to become an important source of FDI. In 2012, outward FDI totalled US$70.1 billion, with the main destination being Hong Kong, China, with two-thirds of the total, followed by the Cayman Islands, the British Virgin Islands, Australia, the United States and the United Kingdom (Table 1.7). Most FDI in the areas of energy, mining, manufacturing, services, and infrastructure.

Table 1.7 Outward foreign direct investment to main countries, 2012

	Value (US$ million)
Total	70,140
Hong Kong, China	46,510
Cayman Islands	6,700
British Virgin Islands	2,970
Australia	2,160
United States	1,880
United Kingdom (Britain)	1,420
Singapore	1,350
Iran	750
Canada	720
Cambodia	720
Russian Federation	660
Germany	650
Laos	650
Indonesia	600
Algeria	460

Source: Data provided by the Chinese authorities.

1.2.4 Outlook

1.55. The authorities consider that economic growth will continue to hinge on strong domestic demand, given a stable external environment. They expect changes in income distribution to bring rapid income growth for rural and urban households and enhance consumption, which will play a more important role in driving economic growth. This effect is likely to be reinforced by trends that are beginning to be observed, such as the process of urbanization, computerization, further industrialization, and modernization of the agricultural sector. The authorities consider that these trends will boost investment demand in areas such as infrastructure, industrial upgrading and technology innovation.

1.56. The authorities noted that despite this generally positive assessment, some risks to future growth and development persist. First, they point to: the fact that the basis of global economic recovery is not yet solid; considerable excess capacity in some industries; the tension between economic development, resources constraint and environmental protection; and potential risks in the financial sector.[26] They also noted the need to remain watchful with respect to inflationary pressure, particularly due to the rising costs of labour and land and to price increase expectations. As a consequence, macroeconomic management needs to handle skilfully the trade-off between stable growth and economic reform so as to improve people's livelihoods. To this end, China will continue to implement a prudent monetary policy and an active fiscal policy, while deepening and accelerating reform.

1.57. The IMF forecasts growth of 7.5% in 2014 and 7.3% in 2015.[27] It expects inflation to remain moderate at around 3% as inflationary pressures are likely to stay subdued, and as persistently high investment has led to excess capacity in many sectors that tends to put downward pressure on prices. External and domestic (savings-investment) imbalances are likely to persist, and the IMF calls for rebalancing. In its assessment of the possible risks the Chinese economy faces, the IMF notes that the heavy reliance on credit and investment to sustain activity is raising vulnerabilities. This is reflected in the steady build-up of leverage, with the stock of total social financing rising by 60% of GDP since 2009. This risks eroding the strength of the enterprises, the financial sector, and local governments. Although it is considered that China still has policy space, the IMF cautions that maintaining rapid and unbalanced growth would further strain the financial sector, government, and corporate balance sheets.[28]

[26] People's Bank of China (2013), Annual Report, 2012, pp. 16-17. Viewed online at: http://www.pbc.gov.cn/publish/english/957/index.html.

[27] IMF online information, viewed at: http://www.imf.org/external/country/CHN/index.htm.

[28] IMF Country Report No. 13/211, People's Republic of China, 2013 Article IV Consultation, July 2013. Viewed at: http://www.imf.org/external/pubs/ft/scr/2013/cr13211.pdf.

2 TRADE AND INVESTMENT REGIME

2.1 Institutional and legal framework

2.1. The National People's Congress of the People's Republic of China (NPC) is the supreme organ of state power. The NPC exercises legislative power; it has a term of five years, meets in session once a year and is convened by its Standing Committee, which is its permanent body. The 12th NPC was elected in 2013. The State Council (the Central People's Government) is the executive body and the highest organ of state administration. Chaired by a Premier, the State Council is composed of Vice-Premiers, State Councillors, Ministries and Commissions, the Auditor-General and the Secretary-General. A new cabinet took office in 2013.

2.2. Local people's congresses and local people's governments respectively exercise and implement state power at the local level. The Constitution of China provides that all levels of administration are subordinated to the State Council. Where the division of responsibilities between the central and local governments is not clear, delegation from the central executive is the most common manner of policy implementation.

2.3. The President and Vice-President of China are elected by the NPC and may serve no more than two consecutive five-year terms. The President appoints and has the power to remove the Premier, Vice-Premiers, State Councillors, and Ministers. The President promulgates legislation adopted by the NPC or its Standing Committee, but does not have the power to veto it. He is responsible for ratifying or abrogating bilateral, regional or international treaties and agreements.

2.4. China's judicial system consists of the Supreme People's Court, the local people's courts at different levels, and special courts such as military, railway, and maritime courts.

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

2.6. In the hierarchy of Chinese domestic legislation the Constitution prevails over any other statute; it is followed by laws, administrative regulations (issued by the State Council), local regulations,[1] ministerial administrative rules (enacted by ministries or departments exclusively at the Central Government level), and local rules (enacted by the People's Government at the provincial, autonomous region and municipal levels directly under the Central Government).[2]

2.7. Laws are passed, amended and enacted by the NPC and its Standing Committee. The NPC itself enacts and amends criminal, civil, state organization laws and other fundamental laws. The Standing Committee of the NPC passes and amends legislation other than the laws that must be enacted by the NPC; this generally includes most trade or customs-related legislation. The State Council promulgates administrative national regulations. They are signed by the Premier and published through an Order or Decree of the State Council.

2.8. For the implementation of laws, regulations, and national policies, the People's Congress and its Standing Committee at the provincial, autonomous region, municipal directly under the Central Government and large city levels may enact local regulations with effect within their local administrative territories. These local regulations may vary across regions, reflecting

[1] Enacted by: (a) the People's Congress and its Standing Committee at the following levels: provincial, autonomous region, municipal directly under the central government, comparatively larger city, or municipal, in that order, or (b) the People's Congress and its Standing Committee in the corresponding large city, and approved by the Standing Committee of the People's Congress at its provincial, or autonomous region level.

[2] Some large cities have a special status, that of "Comparatively larger cities", granted under Article 63 of the Legislation Law. This refers to a city where a provincial or autonomous regional people's government is located or where a special economic zone is located, or a larger city approved as such by the State Council. These cities may legislate; they have a Congress.

the different local features and interests.[3] Special Economic Zones may also develop regulations that can be applied in their jurisdiction. Local rules are published through Announcements of the local Congress. The Constitution and other relevant statutes clarify that local regulations must yield to regulations of higher status.[4] The Legal Affairs Office of the State Council reviews local regulations and rules to ensure policy coherence.

2.9. Administrative regulations are developed by ministries, commissions, the People's Bank of China, the Audit Commission and its affiliated institutions with administrative functions, or directly by the State Council. They must be in accordance with laws, administrative regulations, decisions and orders of the State Council. Opinions and directives are published by way of notices or circulars. Implementation and enforcement of national policies and measures are carried out mostly by counterpart agencies of local governments, except for those ministerial agencies that have local branches.

2.10. Administrative regulations and departmental rules usually come into effect 30 days after their publication; regulations or rules related to national security, foreign exchange and monetary policy may take effect on the day of their publication.[5]

2.11. The *Provisions on the Disclosure of Government Information* mandate governments at central and local levels to: establish the processes for information disclosure; formulate guides and catalogues on the information to be disclosed; and improve the publication of information and systems concerning performance review, public comments, annual reporting, and accountability. The Provisions define government information and a mechanism of related administrative remedies. The Government has identified problems of administrative disclosure including implementation, comprehensiveness of disclosure, procedural problems, and the balance between information disclosure and confidential information.[6] On judicial procedures regarding information disclosure, the *Regulations on Trials in Administrative Litigation Cases Concerning Government Information Disclosure* state that the People's Courts must register litigation claiming that the Government did not provide appropriate information in time, in response to the applicant's request. The authorities have noted that since the last Review in 2012, steps have been taken to enhance government information disclosure, and public consultation on the drafting of regulations and rules. The General Office of the State Council has been working towards further implementation of the *Provisions on the Disclosure of Government Information* by promoting information disclosure on key areas such as administration approval and financial budgeting and accounts. The Legislative Affairs Office of the State Council has issued draft administrative rules to improve the procedures for soliciting public comments on draft laws, regulations and rules, including online.

2.12. The website of the China Legislative Information Network System[7] publishes mainly the Central Government's trade-related laws and regulations as well as some trade-related departmental rules by the Central Government agencies, in Chinese. In addition, it provides on-line or off-line links to other agencies and ministries that are responsible for drafts of administrative regulations and departmental rules proposed for public comments; it also has links to local government legislative affairs offices. The authorities have indicated to WTO Members that all draft administrative regulations have been published on the website of the China Legislative Information Network System for public comments since 2008.[8] A 30-day period for public comments is provided in accordance with the *Legislation Law* and its relevant

[3] Local regulations are issued by local people's congresses and their standing committees, provided they do not contradict the Constitution, laws, and administrative regulations. Local regulations of comparatively larger cities must be submitted to and approved by the standing committees of the provinces or autonomous regions. Autonomous regulations and separate regulations are issued by people's congresses in national autonomous areas. Local rules are formulated by local governments in provinces, autonomous regions, municipalities, and comparatively larger cities, in accordance with relevant laws, administrative regulations or local regulations.

[4] WTO (2006), Trade Policy Review – China, Geneva, pp 34-37.

[5] The Legislative Affairs Office of the State Council issued a circular (Guo Fa Han 2002/134) to the legislative affairs agencies of ministries (at the central level) and local governments (at the provincial level) to urge strict adherence to the 30-day notice for all departmental rules/provincial regulations.

[6] Circular of Opinions on Deepening Administrative Disclosure and Strengthening Administrative Service, issued by the General Office of the State Council on 2 August 2011.

[7] China Legislative Information Network System, viewed at: http://www.chinalaw.gov.cn.

[8] WTO document S/C/M/92, 12 December 2008, paragraph 24.

regulations. They have also indicated that draft laws are published online for public opinion, except in the case of laws that are required to be kept confidential.

2.13. The *China Foreign Trade and Economic Gazette*, edited by MOFCOM, publishes China's trade-related laws, regulations and rules. Currently, laws, regulations, rules and draft rules soliciting public opinion, are published in the Gazette with the text in Chinese but the title in both English and Chinese.

2.14. In accordance with the *Legislation Law* and its relevant regulations[9], the opinions of relevant authorities, other organizations, and citizens must be solicited when administrative regulations, rules of the State Council ministries and local governments are drafted.[10] In 2010, the State Council issued some Opinions with a view to clarifying obligations of ministries and agencies to solicit public comments on draft administrative regulations and departmental rules.[11] Under the above-mentioned Opinions, administrative agencies at the central and provincial levels must solicit public comments when developing administrative regulations and departmental rules except in cases where they are required to be kept confidential in accordance with the law; they are also required to broaden the scope of information disclosure and to enhance administrative reconsideration and litigation. For trade-related regulations and rules that are published for public comment, the agency must provide a comment period of not less than 30 days, subject to exceptions. In accordance with the *Regulations on Procedures for Enacting Administrative Regulations*, and the *Regulations on Procedures for Enacting Rules*, public opinion may be gathered in various forms such as panel discussions, feasibility study meetings, hearings, etc. The authorities have noted that, besides soliciting public opinions, the Chinese Government has continued organizing experts' discussions on draft laws and administrative regulations, including with the participation of foreign experts, and the representatives of foreign enterprises and international organizations.

2.15. In accordance with the *Law on Administrative*[12], any citizens, organs, or other organizations may file appeals with a view to preventing and correcting specific administrative acts that are deemed illegal or improper, within 60 days of the occurrence of the administration action that they believe has damaged their legitimate rights. A pilot programme to establish administrative reconsideration commissions, which are independent from other government agencies, was launched in 2008 in Beijing, Heilongjiang, Jiangsu, Shandong, Henan, Guangdong, Hainan, and Guizhou.[13] The authorities have noted that this pilot programme continues to be implemented and, that as at March 2014, it was applied in different degrees by 21 provinces, autonomous regions, and municipalities directly under the Central Government.

2.16. Complaints from foreign-invested enterprises are handled by the Complaint Coordination Office for Foreign-invested Enterprises and the National Complaint Centre for Foreign-invested Enterprises, both under MOFCOM.[14] Data on actual complaints is not available.

2.2 Trade policy framework and objectives

2.2.1 Institutional framework

2.17. The National Development and Reform Commission (NDRC) is in charge of devising the overall national economic and social development policy. The NDRC is also responsible for: conducting research and setting objectives and policies on economic reform and liberalization; and the planning of inbound and outbound investment. The Ministry of Commerce (MOFCOM) has main responsibility for policy coordination and implementation of all trade-related issues.

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

[10] For a more detailed explanation of China's legal structure and legislative process, see WTO (2006), Trade Policy Review – China, Geneva, p. 36.

[11] Certain Opinions on Strengthening the Building of a Government Ruling by Law.

[12] National People's Congress online information. Viewed at: http://www.npc.gov.cn/englishnpc/Law/2007-12/11/content_1383562.htm.

[13] Online information, viewed at: http://news.xinhuanet.com/legal/2008-12/12/content_10494653.htm.

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

MOFCOM is in charge of, *inter alia*: formulating strategies, guidelines and policies related to foreign trade and international economic cooperation; drafting laws and regulations governing foreign trade and investment; studying and putting forward proposals on harmonizing domestic legislation on trade and economic affairs; and bringing domestic laws into conformity with multilateral and bilateral treaties and agreements.

2.18. Other Ministries involved in trade policy formulation and implementation include: Agriculture; Environmental Protection; Finance; Industry and Information Technology; Land and Resources; and Transportation.

2.19. An institutional change adopted by the NPC in 2013 concerned some agencies involved in trade policy implementation.[15] The change essentially consisted in merging agencies and/or reassigning regulatory functions. It includes the establishment of the China Food and Drug Administration[16]; the re-establishment of the State Oceanic Administration[17]; the separation of the business functions from the administrative function in the railway sector[18]; and the re-organization of the National Energy Administration to include the duties of the State Electricity Regulatory Commission (which was abolished).

2.2.2 Trade policy objectives

2.20. China's overall main trade policy objective is to accelerate its opening up to the outside world. The Third Plenary Session of the 18th National Congress of the Communist Party of China (CPC) held in November 2013 approved a Decision on Major Issues Concerning Comprehensively Deepening Reforms. The Decision calls for the construction of a united and open market system with orderly competition that will play a decisive role in allocating resources; this is the main highlight of the new agenda. The Decision also calls for the reform of state-owned enterprises and sets new rules and targets to encourage private ownership; the goal is to modernize the entrepreneurial environment and diversify ownership. In addition, during the session it was decided to set up a monitoring system to promote ecological progress and fight environmental pollution and improve the use of natural resources. The Decision also seeks to promote the acceleration of reforms in the social sector including education, employment, income distribution, social security and public health, and for deepening the judicial system reform. The Decision calls for the establishment of fair, open and transparent market rules, the elimination of rules which hamper market unification and fair competition, and the punishment of all kinds of illegal anti-competitive behaviour and actions.

2.21. A National Leading Group for Comprehensive Deepening Reform was established as a result of the Plenary Session's decision; it is tasked with the responsibility of setting a reform roadmap, and with the coordination, promotion, and supervision of the decision's implementation. To this end, under the Leading Group, six subgroups were established: (a) economic reform and environmental protection; (b) democracy and rule of law; (c) cultural issues; (d) social issues; (e) reform of the Party's building system; and (f) disciplinary inspection (anti-corruption). The authorities indicated that the subgroups are developing implementation plans in accordance with their responsibilities and cooperate with each other. MOFCOM is involved in the first subgroup. The Plenary drew the roadmap and set a timetable for the concrete realization of the reform targets; it stated that it would push reform past the barriers of vested interests and avoid the country falling into the "middle-income trap".[19]

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[15] *Institutional Reform and Function Transformation Scheme of the State Council*, passed by the 1st Session of the 12th National People's Congress in March 2013.

[16] The China Food and Drug Administration was established to unify the supervision and management of food and drug safety, from production to consumption. The new body merges some of the duties of the following agencies: Office of Food Safety Commission (abolished); State Food and Drug Administration (abolished); General Administration of Quality Supervision, Inspection and Quarantine; and, State Administration of Industry and Commerce. The General Administration of Quality Supervision, Inspection and Quarantine retains its responsibility with regard to the safety and quality of imported and exported food.

[17] The State Oceanic Administration is under the responsibility of the Ministry of Lands and Resources. It merges the duties of the China Ocean Guard, China Coast, China Fishery Patrol, and the Coast Anti-Smuggling Guard.

[18] The Ministry of Railways was abolished, and its functions were assigned to two new entities: the State Railways Administration and China Railways Corporation.

[19] Viewed at: http://news.xinhuanet.com/english/china/2013-11/15/c_132891756.htm.

2.22. The different departments of MOFCOM are in charge of aspects of trade and commercial policy reform. The changes envisaged include: (a) promoting a reform of the domestic trading and circulation system through a reform of trading regulations and the strengthening of the legal environment for business; (b) a reform of the investment regime (inward and outward) to make it more open, transparent and predictable; (c) an acceleration of the implementation of free-trade agreements; (d) the acceleration of the development of the China (Shanghai) Pilot Free Trade Zone (CSPFTZ); and (e) the acceleration of reform geared to opening up inland and border areas.

2.23. With respect to the opening up of border areas, the authorities noted in the context of this review, that this is an attempt to shift the exclusive focus of development, which has concentrated in the eastern and coastal regions in the past three decades, to the inland and border areas, which will be considered the new frontier. The authorities consider that this implies both the development and the opening up of these areas. They deem that this can be partly achieved by strengthening economic and trade relations with the 14 neighbouring countries with which China has borders.

2.24. Regarding the CSPFTZ the goal is to have a showcase for trade investment and financial services reform. Foreign investment is subject to simplified procedures: only filing is required for projects in sectors not included in a Negative List (see below) and approval procedures only apply to the sectors included in the Negative List.

2.25. Regarding the CSPFTZ, the goal is to unleash the benefits of reform and opening up through innovation in the governmental administration system. The aim of launching the pilot programme on changing the functions of government, reforming investment areas, facilitating trade and reforming finance sectors is to provide replicable and expandable experience for the new round of reform. CSPFTZ issues a Negative List for foreign investment; foreign investment in the sectors outside the Negative List will be subject to filing procedures instead of approving procedures, which significantly simplifies the process.

2.26. With respect to the reform of the domestic trading and circulation system the goal is to build up a law-based business environment, to remove market access barriers, to improve resource allocation, and to foster and facilitate domestic trade. The authorities have noted that the Chinese circulation system is still in a development stage and is mired in problems such as low efficiency, high costs, and unbalanced development between rural and urban areas. To this end, the reform will seek to streamline the logistics process so as to raise general efficiency and build a domestic trade system based on the rule of law, and where information technology use is promoted.

2.27. The Third Plenary Session of the 18th CPC National Congress worked out a detailed roadmap and a time-frame for the implementation of the reforms. To this end, 330 major reform measures covering 15 areas have been set. Economic restructuring is expected to lead the overall reform effort. The authorities noted that, after more than three decades of fast expansion, the elemental factors supporting China's development are undergoing profound changes, and deep-seated contradictions are becoming more acute. China is undergoing a period of restructuring and reform, and of adjustment of its growth pace. The authorities stated that the reform process is entering a stage where crucial problems need to be addressed and that, to this end, China is making efforts to deepen reforms and restructuring.

2.3 Participation in the World Trade Organization

2.28. China became a WTO Member on 11 December 2001. China is an observer to the Plurilateral Agreement on Government Procurement (GPA) and is in the process of negotiating its accession thereto. At the Ninth WTO Ministerial Conference (MC9) in Bali, the authorities indicated that an inter-agency mechanism has been established, which could expedite the GPA accession process.[20] China submitted a revised offer in December 2013.

2.29. China is an observer to the Plurilateral Agreement on Trade in Civil Aircraft, and a participant in the Information Technology Agreement (ITA).

[20] WTO document GPA/M/54: Committee on Government Procurement - Minutes of the Ministerial-Level meeting of 3 December 2013.

2.30. China considers its participation in the multilateral trading system and regional trade arrangements as an important part of its opening up policy. At the MC9, the authorities expressed China's support of the multilateral trading system, its openness towards further multilateral and plurilateral negotiations, and its commitment to achieving development objectives through trade.[21] China considers that an early harvest should "serve as the base for kick-starting negotiations of remaining issues on the Doha Development Agenda (DDA) and eventually achieving the development objectives".

2.31. China contributes regularly to the DDA Global Trust Fund. In 2011, China sponsored the *China's LDCs and Accession Programme*, a programme established within the Aid for Trade framework to help LDCs participate more effectively in the WTO meetings, and assist non-members to negotiate their accession.[22]

2.32. China's notifications to the WTO cover a wide range of agreements (see Table A2.1). Between 2012 and 2013, China made 115 new or updated notifications under the SPS Agreement (SPS, Article 7, Annex B), and 171 under the TBT Agreement. Other notifications covered subsidies for the period 2005-2008; regional integration processes (Article XXIV:7 of the GATT 1994); and regular reports on anti-dumping and countervailing duty actions (Article 16.4 of the AD Agreement and Article 25.11 of the SCM Agreement). It appears that some changes or updates to laws or procedures would require updated or amended WTO notifications. In particular, updated notifications are likely to be necessary in the area of agriculture and subsidies.

2.33. In the negotiations at the WTO, China is a member of the following groups: developing Members, recently acceded Members (RAMs), G-20; G-33, and "W52" sponsors.

2.34. Between 2012 and 2013, China was involved in four dispute settlement cases as a complainant; eight cases as a respondent; and 15 cases as a third party (Table A2.2).

2.4 Regional arrangements

2.35. As stated in its twelfth Five-Year Plan, China intends to accelerate the implementation of its Free Trade Area Strategy; strengthen economic linkages with major trading partners; and deepen cooperation with emerging markets and developing countries.

2.4.1 Reciprocal agreements

2.36. China has concluded 12 FTAs with over 20 States and regions. China has been a member of the Asia-Pacific Economic Cooperation (APEC) forum since 1991; and a member of the Asia-Europe Meeting (ASEM) since its inception, in 1996. China acceded to the Asia-Pacific Trade Agreement in 2001. China's free trade agreement with the Association of Southeast Asian Nations (ASEAN) came into effect in 2005.[23] The cooperation with ASEAN countries was extended to standards, technical regulations, conformity assessment, and intellectual property through complementary agreements.

2.37. In 2003, China signed Closer Economic Partnership Arrangements (CEPA) with Hong Kong, China and Macao, China. Several supplementary agreements were added to the initial agreement. The latest was signed in August 2013 and entered into force in January 2014.

2.38. China has FTAs in force with Pakistan, Chile, New Zealand, Singapore, Peru, and Costa Rica (see WTO, 2012). Since its last Trade Policy Review, China has signed free trade agreements with Switzerland and Iceland, but they are yet to enter into force (Table 2.1).

2.39. China is currently negotiating FTAs with the Gulf Cooperation Council (GCC) countries, Australia; Norway; Korea, the Republic of and Japan. Negotiations for a Regional Comprehensive

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[21] WTO document WT/MIN(13)/ST/99, 24 January 2014, Statement by China's Minister of Commerce at the WTO Ministerial Conference, Ninth Session, Bali, 3-6 December 2013.

[22] *China's LDCs and Accession Programme* (also known as China's Programme). Viewed at: http://www.wto.org/english/news_e/pres11_e/pr632_e.htm.

[23] By 2010, China and the original ASEAN members (Brunei, Indonesia, Malaysia, the Philippines, Singapore, and Thailand) had substantially reduced their tariff and non-tariff barriers. Cambodia, Lao PDR; Myanmar, and Viet Nam were provided flexibility up to 2015.

Economic Partnership (RCEP) between ASEAN members, Australia, China, India, Korea, the Republic of, Japan, and New Zealand were launched at the 21st ASEAN Summit in November 2012.

Table 2.1 Overview of the new FTAs, 1 January 2012 - 31 December 2013

China-Switzerland Free Trade Agreement				
Parties	China and Switzerland			
Date of signature/entry into force	6 July 2013/Not yet in force			
Transition for full implementation	**Category**	**% of tariff lines**		**Transition period (upon entry into force)**
		China	**Switzerland**	
	A	22.8	88.9	Immediately
	B	38.7	N/A	5 years
	B1, B3, C	N/A	8.0	Immediately (fixed duty or reduced MFN)
	C1	30.3	N/A	10 years
	C2	2.1	N/A	10 years (to be reduced by 60%)
	D	5.8	3.2	Exempted
	Other	0.3	N/A	12 or 15 years
Main products excluded from liberalization	China: Exceptions related to such products as grain, oil, cotton and sugar			
Merchandise trade (2012)	Imports from Switzerland: US$228.2 million (1.26% of total) Exports to Switzerland: US$34.9 million (0.17% of total)			
of which preferential	Not applicable			
Related WTO documents	Not yet notified			
Relevant websites	http://fta.mofcom.gov.cn http://www.seco.admin.ch/themen/00513/00515/01330/index.html?lang=en			
China-Iceland Free Trade Agreement				
Parties	China and Iceland			
Date of signature/entry into force	14 April 2013/Not yet in force			
Transition for full implementation	**Category**	**% of tariff lines**		**Transition period (upon entry into force)**
		China	**Iceland**	
	A	95.6	96.0	Immediately
	B	0.3	N/A	5 years
	C	0.0	N/A	10 years
	D	4.1	3.9	Exempted
	Tariff not to exceed 65%	N/A	0.1	Immediately
	Other	N/A	0.04	Immediately (compound tariffs)
Main products excluded from liberalization	China: grain, oil, cotton, sugar, and certain products made of paper Iceland: dairy and meat products			
Merchandise trade (2011)	Imports from Iceland: US$75.6 million (0.42% of total) Exports to Iceland: US$76.6 million (0.37% of total)			
of which preferential	Not applicable			
Related WTO documents	Not yet notified			
Relevant websites	http://fta.mofcom.gov.cn http://www.mfa.is/foreign-policy/trade/free-trade-agreement-between-iceland-and-china			

Source: Information provided by the Chinese authorities supplemented by online information.

2.4.2 Unilateral preferences

2.40. As of 1 January 2014, unilateral preferential tariffs were offered to 40 least developed countries, including two that graduated from the United Nations list in February 2013 (Vanuatu and Equatorial Guinea). Some 90% of tariffs (in terms of national tariff lines) on imports from the Lao People's Democratic Republic, Cambodia and Myanmar were eliminated unilaterally by China as of 1 January 2010 under the China-ASEAN FTA framework.[24] In accordance with

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

the Notice of the Tariff Commission of the State Council No. 15 of 21 June 2013 (Shuiweihui [2013] No.15), since 1 July 2013 duties on 95% of tariff lines have been lowered to zero for imports from LDCs that have diplomatic ties and have completed an exchange of notes with China.

2.5 Foreign investment regime

2.41. In 2012, China was the world's second largest recipient of FDI inflows (after the United States).[25] FDI in China mostly takes the form of wholly foreign-owned enterprises, which represented 52.5% of foreign-invested enterprises as of 2012. FDI is concentrated in the eastern region, which accounted for 81.2% of realized FDI value in 2012.[26] Also, FDI is still largely concentrated in the manufacturing sector, which represented 38.7% of the total in 2013, although FDI in real estate and services has been growing fast in recent years.[27]

2.42. China's policy towards foreign investment has been to encourage direct inward FDI as well as joint ventures between Chinese and foreign companies, particularly with regard to R&D activities. FDI has been encouraged in areas such as high-end manufacturing, high-tech industries, service industries, new energy and energy-saving environmental protection industries. The authorities have noted that China actively guides foreign investment in the central and western regions.

2.5.1 Regulatory framework and market access

2.43. The main laws specifically related to foreign-invested enterprises (FIEs) in China include the following: the Law on Sino-Foreign Equity Joint Ventures; the Law on Sino-Foreign Cooperative Joint Ventures; the Law on Wholly Foreign-Owned Enterprises; the Law on Partnership Enterprises; and their related administrative regulations and rules. During the period under review, the regulatory framework underwent significant changes, as broadly reflected in the State Council's Circular No. 47 of 13 December 2013 (GuoFa [2013] No. 47), or State Council *Circular on releasing the Catalogue of Investment Projects Subject to Government Verification*, *2013 version*. Other changes include the revision of the Company Law (Order of the President of the People's Republic of China No.8, issued on 28 December, 2013).

2.44. Foreign investment in China can take several forms, including joint ventures (equity, contractual or cooperative), wholly foreign-owned enterprises, participation in partnership enterprises, or mergers and acquisitions of Chinese domestic enterprises. Wholly foreign-owned enterprises and equity joint ventures remain the most common forms of FIEs, and attracted respectively 58.2% and 27.2% of realized FDI in 2012.[28]

2.45. Foreign investment projects are classified in four categories: encouraged, permitted, restricted, and prohibited.[29] In general, projects in the encouraged category (those that the authorities are interested in promoting) are those that use improved technology and are less polluting, while restricted projects are those deemed to employ outdated technologies, over-exploit scarce natural resources, or harm the environment. The prohibited category includes projects that are considered as polluting the environment, destroying natural resources or damaging social and public interests. Projects that do not fall into these three groups are "permitted".

2.46. The *Catalogue for the Guidance of Foreign Investment Industries* (Investment Catalogue) is the main reference for the classification of projects. It lists the industries that are encouraged, restricted or prohibited. The Catalogue was revised in 2011 to reflect the goals adopted

[25] UNCTAD (2013), *World investment Report 2013 – Global value chains: investment and trade for development.* United Nations, New York and Geneva, 2013. Viewed at: http://unctad.org/en/publicationslibrary/wir2013_en.pdf.

[26] The Eastern Region comprises: Beijing, Tianjin, Hebei, Liaoning, Shanghai, Jiangsu, Zhejiang, Fujian, Shandong, Guangdong, and Hainan.

[27] Statistics on FDI in China, 2013. Accessed online at: http://img.project.fdi.gov.cn//21/1800000121/File/201310/201310141023341793163.pdf.

[28] Statistics on FDI in China, 2013. Accessed online at: http://img.project.fdi.gov.cn//21/1800000121/File/201310/201310141023341793163.pdf.

[29] *Provisions on Guiding Foreign Investment Direction.* Viewed at: http://english.mofcom.gov.cn/aarticle/topic/chinainvest/foreigntradelaw/200707/20070704928472.html [13 February 2014].

in the twelfth Five-Year Plan (2011-2015). The revised Catalogue is considered a step towards further opening up the economy as it included more projects in the encouraged category, removed some from the restricted and prohibited categories, and relaxed some restrictions on the form of investment in certain industries (Table 2.2).

2.47. Projects in the "encouraged" category are eligible for preferential treatment as specified in the relevant laws and regulations. They may enjoy customs duty and VAT exemption on the importation of capital goods. Projects in the restricted category must undergo a more thorough examination and approval process.

Table 2.2 Summary of the major changes in the Investment Catalogue, 2011

2011 Catalogue	2007 Catalogue	Industry/Activity
Encouraged	**Encouraged**	**Mining:** form of investment extended to equity joint ventures, in addition to cooperative joint ventures. **Food processing:** no restriction on the form of investment in the production of natural food additives and ingredients.
	Permitted	**Health:** production of new vaccines for selected diseases. **Mining:** exploration and development of shale gas. **Textile:** new products and technologies in textile; green/environmental protective and special clothing production. **Manufacturing:** key spare parts for vehicles using new energy. **Energy:** manufacturing of gear transmission used for wind power; nuclear power and high-speed trains; variable paddle gear transmission systems used for vessels; and large-scale and heavy load gear cases. **Services:** Electric vehicle charging stations; venture capital businesses, intellectual property services; household services; marine oil pollution clean-up services; vocational training services; water plant construction and operation. **Other:** next-generation Internet system equipment; use of environmentally friendly resources in the production of bio fibre; venture capital firms.
Permitted	**Encouraged**	**Manufacturing:** whole cars, certain components and parts; ethylene; polycrystalline silicon. **Chemicals:** large-scale chemical products using coal as raw material.
	Restricted	**Health:** public health; social security and social welfare industry; medical institutions; pharmaceutical distribution; production of non-self-destructible injections; transfusion sets; blood transfusion sets and blood bags. **Construction:** natural gas, heating, and public sewage systems. **Manufacturing:** carbonated beverages. **Services:** financial leasing firms; distribution of automobiles; commercial products auctions; franchises; agencies; business management services. **Others:** import of audio-visual products; books; newspapers; periodicals and digitally published contents.
	Prohibited	Internet culture business: music only.
Restricted	**Restricted**	**Mining:** list of restricted non-metal ores extended to high alumina refractory cement, wollastonite and graphite; extraction and refining of lithium and sulphur iron; refining of brine resources from salt lakes. **Food processing:** extension of the scope of edible oils and grains. **Wholesale and retail trade:** large-scale agricultural markets. **Education:** ordinary senior high schools (CJV only).
Prohibited	**Permitted**	**Post and telecommunications:** domestic express letter delivery services.
	Restricted	**Real estate:** villa projects.

Source: *Catalogue for the Guidance of Foreign Investment Industries* (2007 and 2011 versions).

2.48. Projects in the Central and Western Regions may enjoy less restrictive policies. Foreign-invested projects in sectors listed in the *Catalogue of Priority Industries for Foreign Investment in the Central-Western Regions of China* are entitled to the same preferential treatment as those classified as "encouraged" in the *Investment Catalogue*. The Central and Western Regions Catalogue was revised in 2013, to enlarge its sectoral and geographical scope[30]: it has now 500 items, 173 more than the previous Catalogue, and covers Hainan province. Newly included sectors are related to emerging industries and services (solar power

[30] An English version of the revised catalogue was not available at the time of writing this report. The Chinese version is available at: http://www.ndrc.gov.cn/zcfb/zcfbl/2013ling/W020130516388520815145.pdf.

generation and its equipment, spare parts manufacturing, cloud computing, the "Internet of Things", and mobile Internet). The Catalogue relists some industries such as manufacturing of whole automobiles or of special purpose vehicles, even though these industries were removed from the Investment Catalogue.

2.49. Foreign investment in China can be made in foreign currency or in renminbi (RMB). Except for investments valued at US$300 million or more or in industries that require approval from MOFCOM, procedures may be completed by the authorities at the provincial level. Foreign investment with RMB is not allowed "directly or indirectly" in equities and financial derivatives, except if used for strategic investment in listed companies.

2.50. Between 2012 and 2013, the State Administration of Foreign Exchange (SAFE) took measures aiming at simplifying rules governing FDI in China and easing restrictions on the use of capital for direct investments.[31] The SAFE abolished 24 regulations containing requirements on foreign exchange registration and the opening and use of accounts; and introduced new rules focusing on simplified procedures and regulations for foreign currency registration, the opening and use of accounts, as well as the receipt and disbursement of capital and settlements. The restrictions on reinvestment in RMB for foreign companies were abolished. FIEs are now allowed to extend loans to offshore shareholders, although restrictions are still in place on the amount of such loans.

2.51. Foreign investors may also be allowed to own some shares in State-controlled enterprises in certain sectors.[32] There are no restrictions on lending by domestic banks to FIEs.

2.52. In accordance with the Anti-Monopoly Law, FDI in the form of mergers and acquisitions (M&As) of enterprises is subject to anti-trust reviews.[33] The reviews are intended to assess the impact of such M&As on market competition. In addition to anti-trust reviews, FDI involving M&As with Chinese domestic enterprises is subject to national security reviews, if the FDI is related to defence, or is deemed to have an influence on national security, for example through control of firms engaged in activities involving key commodities (e.g. agriculture, energy, and natural resources), key infrastructure, key transport, and key equipment manufacturing with essential technologies. In 2011, the authorities took some steps to clarify the procedures and scope of these reviews[34], and issued guidelines for impact assessment of anti-trust reviews.[35] From 1 January 2012 to 1 May 2013, MOFCOM unconditionally approved 215 anti-monopoly review decisions and conditionally approved eight. Anti-monopoly reviews have also been conducted at the provincial level. The authorities noted that the State Administration for Industry and Commerce (SAIC) authorized the industrial and commercial bureaux in some provinces, such as Jiangsu, Jiangxi and Zhejiang, to register and investigate 21 anti-monopoly cases during the period.

2.53. In 2013, the authorities issued some Guiding Opinions[36] encouraging companies operating in some key industries to increase their merger and reorganization activities in order to improve their efficiency and global competitiveness. The targeted industries are: automobiles, steel, cement, shipbuilding, electrolytic aluminium, rare earth, electronic information, pharmaceuticals, and agricultural industrialization. For some of these industries, the Guiding Opinions set targets in terms of the degree of concentration to be reached by 2015. The legislation also encourages

[31] *Circular on Further Improving and Adjusting Foreign Exchange Administration Policies on Direct Investment (Hui Fa [2012] No. 59).*

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

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

[34] MOFCOM Provisions on National Security Review of Acquisitions of Domestic Enterprises by Foreign Investors, 1 September 2011.

[35] The Interim Provisions on the Assessment of the Impact of Concentration of Undertakings on Competition, 5 September 2011.

[36] *Guiding Opinions on Accelerating the Merger and Reorganization of Enterprises in Key Industries* (MIIT Lian Chan Ye [2013] No. 16).

foreign investors to participate in domestic enterprises through share participation, mergers and acquisitions.

2.54. The Government encourages the development of foreign-invested high-tech enterprises, as well as R&D cooperation between domestic and foreign enterprises for the purpose of enjoying EIT (enterprise income tax) preferential treatment.[37] The authorities support eligible FIEs, jointly with domestic enterprises and research institutes, to apply for government funded/sponsored R&D projects, innovation capacity-building projects, and authentication of national technology centres. Eligible foreign-invested R&D centres were exempted from customs duties, value-added tax, and consumption tax on imported inputs needed for R&D consumables until 31 December 2015.[38] The authorities maintain that there are no mandatory requirements of technology transfer associated with FDI approval; these were removed from all laws and regulations upon China's accession to the WTO. In response to concerns raised by other WTO Members about de facto technology transfer requirements on foreign investment projects, e.g. in the new-energy automotive sector[39], the authorities stated that such concerns are not consistent with the facts, as China encourages the development of new-energy automobiles through independent innovation and applies the same certification requirements to national companies or joint ventures.

2.5.2 Examination and approval procedures

2.5.2.1 Inward investment

2.55. Important changes to the examination and approval procedures for foreign-invested fixed asset investment projects were introduced in December 2013 to accelerate the foreign investment establishment process and facilitate investment. State Council Circular No. 47 of 13 December 2013 (GuoFa [2013] No. 47) contains the *Catalogue of Investment Projects Subject to Government Verification*. The Catalogue applies to fixed asset investment projects of both foreign and domestic investors. In accordance with the Circular, as of 13 December 2013, there are two categories of investment projects depending on their required modality of registration: (a) projects subject to verification; (b) projects subject to filing. The Catalogue lists the fixed-asset investment projects subject to verification; projects not listed in the Catalogue may be classified under the filing option. In general, FDI in "important or restricted" projects[40] requires verification by the authorities, as stipulated in the State Council *Decision on Reforming the Investment System and the Catalogue of Investment Projects Subject to Government Verification*, which includes government-funded, important or restricted fixed-asset investment projects, in several industries or sectors.[41]

2.56. Verification consists in the examination of the investment project. It is carried out by the NDRC for projects at the national level, or by the corresponding provincial DRCs for projects at the provincial level or under a certain threshold (see below). A number of conditions need to be met, including those related to the environmental effect of the project, and land use. Filing is a simplified process handled by the competent local authorities; in general foreign-invested projects are subject to the same requirements as domestic investment projects.

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

[38] Foreign-invested R&D centres were initially exempted from import customs duties, VAT and consumption tax on scientific development products between 1 July 2009 and 31 December 2010. *Circular on Further Implementation of Tax Policies for Research and Development Institutions' Purchase of Equipment* (Cai Shui [2011] No. 88), extended the tax preferential treatment until 31 December 2015.

[39] WTO documents G/L/977, 16 November 2011; and IP/C/60, 17 November 2011.

[40] The authorities note that these restricted sectors are listed in the restricted category in the *Catalogue for Guiding Industry Structure Adjustment* and the *Catalogue for the Guidance of Foreign Investment Industries*.

[41] 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.

The formalities to be met regardless of the need for verification include: approval of the establishment of the enterprise; obtaining the required FIE approval certificates; application for a business licence; and registration with the relevant authorities (taxation, customs, foreign exchange, regulatory body). The process for FDI approval in the services sectors is governed by sector-specific laws and regulations (for example, subject to minimum capital requirements in banking).

2.57. At the time of drafting this report (March 2014), the NDRC had already drafted administrative measures for the verification and filing of foreign-invested projects and had completed the process of public consultation online, including the one-month period for comments.[42] The authorities noted that the NDRC would publish the administrative measures after introducing the pertinent modifications. The corresponding measures for domestically-invested projects had not yet been drafted. Since administrative rules were not yet in place, and hence the procedures of the *Catalogue of Investment Projects Subject to Government Verification* could not yet be implemented, the authorities indicated that enterprises in industries classified in the *Catalogue of Investment Projects Subject to Government Verification* as requiring only filing had the choice, during this transition period, of applying for verification immediately or waiting to file when the administrative measures come into effect. They indicated that most fixed-asset foreign-invested projects seemed to favour the second route. They also indicated that implementation of the Catalogue measures will take place on the same day the administrative rules are issued.

2.58. The main regulations for FDI in "important or restricted" projects, the *Interim Measures for the Administration of Examination and Verification of Foreign Investment Projects*, based on the Decision and on the Administrative Permission Law, stipulate examination and approval procedures for fixed-asset FDI in China.[43]

2.59. Verification is carried out, depending on the size or location of the project, by the State Council, the central NDRC or one of its local branches. Projects in encouraged industries in the *Catalogue for the Guidance of Foreign Investment Industries* valued at over US$300 million (US$50 million for restricted industries), and where the Chinese party has the controlling stake, must be examined by the NDRC, while projects below these thresholds can be filed, verified and approved by local branches.[44] Projects valued at US$500 million or more (US$100 million for restricted industries) are submitted for verification to the State Council. The NDRC (or its local branches) examines and verifies FDI applications against, *inter alia*, the following provisions: relevant laws and regulations; the *Catalogue for the Guidance of Foreign Investment Industries*; the *Catalogue of Priority Industries for Foreign Investment in the Central-Western Regions of China*; the medium and long-term development plan for the national economy and society (the five-year plans); policies related to industry planning and restructuring; public interests and competition provisions; land-use planning, city planning, and environmental protection policies; national standards; and rules on capital account management and foreign debt management.[45] They may also seek opinions from the industry regulator or a "qualified consultation institution".

2.60. Upon completion of the verification or filing process, which can be regarded as the market access procedure, the FIE must next submit an application to MOFCOM, at the competent level, for an FIE Approval Certificate (establishment procedure) in the case of new fixed-asset investment projects, or when expanding the scale of production. In the case of projects not falling into either of these two categories, the FIE may directly submit an application for establishment to MOFCOM at the competent level. Investment projects valued at US$300 million or more in the encouraged or permitted sectors (and US$50 million for restricted industries) require approval from MOFCOM at the central level, while projects below these thresholds can be approved by MOFCOM's provincial or local offices. Once MOFCOM's approval has been obtained at the

[42] Consultations were held online (in Chinese only) through NDRC's website: www.ndrc.gov.cn.

[43] 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.

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

[45] *Provisions on the Interim Measures for the Administration of Verification and Authorization of Foreign Investment Projects* (NDRC Decree No. 2004/22), entered into force on 9 October 2004.

competent level, the FIE must apply for business registration and obtain a business licence. Any subsequent change regarding the FIE (such as capital increase, share transfers, merger operations), must obtain MOFCOM's approval at the competent level, followed by filing for a change in registration.

2.61. FIEs must also register with the State Administration for Industry and Commerce (SAIC) or a provincial commercial department, and with the SAFE. Registration requirements are the same as for domestic enterprises, but may vary slightly depending on the sector of activity. Corporations are registered in accordance with the Corporations Law, while partnerships are registered in accordance with the Partnership Law.

2.62. In 2013, the State Council adopted measures aimed at easing the industrial and commercial registration system.[46] With the exception of projects involving national security, human or property safety, prior approval by the competent authorities is no longer a prerequisite for registration with industrial and commercial authorities. The State Council issued on 18 February 2014 a *Notice on Implementation of Reform of the Registration of Enterprises*, as part of the State Council's *Decision on the Abolishment and Revision of several Administration Regulations* (State Council Order No. 648, of 19 February 2014). The reform, with effect from 1 March 2014, covers both foreign and domestic enterprises, including state-owned enterprises. It has four components, linked to registration and post-establishment requirements: (a) changes with respect to capital requirements, from paid-up capital in the previous system, to subscribed capital; also the (prior to registration) capital verification requirement has been removed, and it is now up to the shareholders to decide when to put up the capital; (b) relaxation of domicile requirements for the enterprise: previously a domicile had to be provided for each enterprise registered; currently a single domicile can be provided for one or several enterprises, and one enterprise may provide more than one domicile at registration (previously this was not allowed); (c) elimination of the annual inspection requirement: previously an annual inspection of the enterprise's operating status was mandatory, now it has become voluntary; (d) establishment of a credit information disclosure system for enterprises: enterprises may submit their basic information (domicile, structure, capital, members of the Board of Directors, articles of association) to a public system; this is intended to let the general public know whether a company is legally established and solvent.[47]

2.63. The Corporations Law was amended in January 2014 to adapt the provisions regarding capital requirements, and replace the paid-up capital registration system with a subscribed capital registration system. The amendment entered into effect on 1 March 2014. Partnerships have no capital requirements, so they were not affected by the changes in the *Notice on Implementation of Reform of the Registration of Enterprises.*

2.64. Some provinces, autonomous regions and municipalities directly under the Central Government have established one-stop services to help foreign investors with the approval and registration process.

2.5.2.2 Outward investment

2.65. Since 2005, China's outward FDI flows have been rapidly increasing, reflecting stronger policy support to the country's *Going Global* strategy.[48] In 2012, China overtook the United Kingdom and Hong Kong, China to become the third largest investor economy, behind the United States and Japan.[49]

2.66. The *Decision on Reforming the Investment System* (GuoFa [2004] No. 20) is the main guiding framework for China's outward investment. The *Administrative Measures on Outbound*

[46] The *Institutional Reform and Function Transformation Scheme of the State Council*, adopted at the 1st Session of the 12th NPC.

[47] Previously, this type of information was not available to the public; it was only deposited with Government institutions. The new system does not serve the purpose of easing the grant of credit; the People's Bank of China (PBC) has its own classification and rating system for these purposes.

[48] China's "go global" policy was initiated in 1999, to encourage Chinese enterprises, mainly SOEs, to invest overseas.

[49] UNCTAD (2013), World investment Report 2013 – Global value chains: investment and trade for development. United Nations, New York and Geneva, 2013. Viewed at: http://unctad.org/en/publicationslibrary/wir2013_en.pdf.

Investment stipulate the approval process. The *Outbound Foreign Investment Catalogue* indicates the sectors and countries where outward investments are encouraged. Basically, Chinese investors must seek approval and verifications from three key regulatory bodies: the NDRC, MOFCOM and SAFE. The nature of the procedure (approval or simple filing) and the relevant administrative level (central or local) depend on factors such as the type of investor (SOE or private), the place, the sector and the size of the investment. Outward investments in "sensitive" sectors, countries or regions require approval and verification at central levels. For all other investment projects, the size of the investment and the nature of the investing entity are the main criteria for determining the appropriate approval authority (Table 2.3).[50]

Table 2.3 Verification and approval process for outward investments[a]

	Centrally-administered SOEs		Other entities	
	2004 Catalogue	2013 Catalogue	2004 Catalogue	2013 Catalogue
NDRC Approval				
Local filing	Not allowed	No longer applicable	Not allowed	≤ US$300 million
Central filing	≤ US$100 million	No longer applicable	Not allowed	US$300 million to 1 billion
Local approval		Not applicable	≤ US$100 million[b]	No longer applicable
Central approval	> US$100 million	> US$1 billion	> US$100 million[a]	> US$1 billion
MOFCOM verification				
Filing, central or local	Not allowed	All projects		All projects
Summary process	Not allowed	No longer applicable	≤ US$10 million	No longer applicable
Central verification	> US$100 million	No longer applicable	> US$10 million	No longer applicable

a This does not apply to projects in sectors or countries designated as "sensitive".
b The threshold is raised to US$300 million for natural resources-related projects.

Source: Information provided by the authorities. For more detailed information, refer to the *Decision on Reforming the Investment System* (GuoFa [2004] No. 20), the *Catalogue of Investment Projects Requiring Government Verification* (issued by the State Council, 2013 version). Viewed at: http://www.gov.cn/zwgk/2005-08/12/content_21939.htm; and to Administrative Measures on Outbound Investment (MOFCOM Order [2009] No. 5). Viewed at: http://www.mofcom.gov.cn/article/b/c/200903/20090306103210.shtml.

2.67. In December 2013, the State Council issued the *Circular Concerning the Catalogue of Investment Projects Requiring Government Verification*, Guo-Fa [2013] No. 47. The Circular extends the *Catalogue* to all (onshore and offshore) investment projects that require governmental approval. Investments in "sensitive" countries, regions or sectors remain subject to approval by the NDRC and verification by MOFCOM. The 2013 Catalogue provides some details regarding filing procedures. Currently, the NDRC and MOFCOM are revising the relevant administrative rules.

2.68. After the approval and verification processes, the investor must register with SAFE in order to be allowed to remit out of China the funds required for the investment. SOEs also need to obtain the approval of the state-owned Assets Supervision and Administration Commission. The approval of industry-specific regulators may be required for investment in certain industries.

2.5.3 Incentives to foreign investment

2.69. Incentive measures applicable to foreign investments take mainly one of the following forms:

a. encouraged items in the *Catalogue for the Guidance of Foreign Investment Industries*[51] (see Table 2.2), and projects in the *Catalogue of Priority Industries for Foreign Investment in the Central-Western Regions of China* (latest amendment in 2013);

[50] The authorities have noted that, according to the current relevant rules, sensitive countries and regions include those with which China has not established diplomatic relations, or those subject to international sanctions, or those facing a war or civil strife. Sensitive sectors include basic telecommunications operations, the exploration of water resources, large-scale land exploration, electricity transmission lines and power grids, news media, among others.

[51] The investment project must be in the encouraged category in the *Catalogue for the Guidance of Foreign Investment Industries and in the Catalogue of Priority Industries for Foreign Investment in the*

b. duty-free treatment for equipment imported within the total investment amount for self-use; and,

c. Preferential tax treatment provided under the *Enterprise Income Tax Law* (Table 2.4).

2.70. The *Enterprise Income Tax Law* allows the application of an accelerated depreciation method or the shortening of the depreciation period when the depreciation of a fixed asset is accelerated. Autonomous local authorities may also opt for tax reduction or exemption for their portion of the enterprise income tax (EIT).

Table 2.4 Incentives in the form of preferential tax treatment under the Enterprise Income Tax Law

Type of enterprise	Conditions of eligibility	Form of the incentive
Small enterprises with low profits	Industrial enterprises with an annual taxable income of no more than RMB 300,000, a payroll size of at most 100 persons, and a total amount of assets not exceeding RMB 30 million. Other enterprises, with an annual taxable income of no more than RMB 300,000, a payroll size of at most 80 persons, and a total amount of assets not exceeding RMB 10 million.	Reduced rate of 20%
High and new technology enterprises	State-encouraged. Recognized high-tech enterprises must engage in a business involving products (services) that falls within the scope specified in the *Advanced and New Technology Areas Eligible for the Key Support of the State*. To be recognized as high-tech enterprises, companies must meet some parameters regarding R&D expenses, income from high-end new technological products and number of R&D personnel.	Reduced rate of 15%
Venture capital enterprise	Venture capital investments supported and encouraged by the State	Partial deduction of the invested amount from taxable income
All enterprises	Income derived from one of the following: • Projects in agriculture, forestry, animal husbandry and fisheries; • Public infrastructure investment projects supported by the State • Qualified projects related to environmental protection, energy and water conservation • Qualified transfer of technology	Deduction/exemption from income tax
All enterprises	R&D expenses incurred for the development of new technology, new products or techniques	Deduction for 50% of the incurred expenses
All enterprises	Income from the production of goods in conformity with the industrial policies of the State and by way of comprehensive utilization of resources	Deduction of such income from taxable income
All enterprises	Investment made in specialized equipment for environmental protection, energy and water conservation, production safety…	Partial deduction of the invested amount from income tax

Source: Enterprise Income Tax Law of the People's Republic of China.

2.71. Preferential tax treatment previously granted to firms located in special economic and high-tech development zones was grandfathered under the *Enterprise Income Tax Law* of 2008, and a transition period was granted. After the transition period, there will be no preferential tax treatment for enterprises in these zones.[52]

Central-Western Regions of China, and goods to be imported must not be listed in the *Catalogue of Imported Products not subject to Tax Exemption in Foreign Investment Projects*.

[52] Article 57 of the *Enterprise Income Tax Law* and provisions stipulated in the *Notice of the State Council on the Implementation of the Grandfathering Preferential Policies for Enterprise Income Tax* (Guo Fa 39/2007).

2.72. Foreign-invested projects listed in the encouraged category in the *Catalogue for the Guidance of Foreign Investment Industries* may also benefit from customs tariff exemption for the equipment purchased to be used in the project, excluding goods listed in the *Catalogue of Imported Products not subject to Tax Exemption in Foreign Investment Projects*.

2.73. Both domestically-funded and foreign-invested enterprises in China are currently subject to the same taxation regime, and there is no longer a preferential tax treatment uniquely for FIEs. Before 2008, the actual tax burden of FIEs was apparently lower than the burden for domestic enterprises in virtue of the support granted through preferential tax treatment. This changed in 2008 when, with the purpose of creating a fair taxation environment for all kinds of enterprises and fully implementing the non-discrimination principle, China implemented a new Enterprise Income Tax (EIT) Law and its regulations as from 1 January 2008. The new law terminated the situation under which domestic and foreign-invested enterprises were subject to different EIT treatment by providing that the EIT be levied at the same rate on FIEs and domestic enterprises. China subsequently went on to standardize the urban maintenance and construction tax and educational surcharge on enterprises, for FIEs and domestic enterprises (and individuals) as from 1 December 2010.

2.74. Tax incentives are in place for FDIs investing in the central-western region.[53] Processing trade in the central-western region is also encouraged by establishing special customs supervision zones or bonded supervision areas.[54]

2.75. Small and medium-sized enterprises (SMEs) may benefit from lower enterprise income tax and lower VAT. Small-scale, low-profit enterprises meeting certain requirements pay enterprise income tax at 20%.[55] Since 1 January 2012 and until 31 December 2015, small-scale and low-profit enterprises with an annual taxable income not higher than RMB 60,000 are subject to an enterprise income tax at a rate of 20% calculated on 50% of their taxable income.[56] From 1 August 2013, micro and small enterprises with monthly sales of less than RMB 20,000 are exempted from VAT.

2.76. In order to attract investment, especially foreign investment, and promote economic development China operates a preferential tax regime in specific regions. Such specific regions include Special Economic Zones[57], Coastal Open Cities[58]; Economic and Technological Development Zones, Binhai New Area of Tianjin, Pudong New District of Shanghai and the Three Gorges of the Yangtze River Economic Zone.[59] The enterprises established in these regions, which satisfy certain

[53] Certain Opinions on Further Improving the Use of Foreign Capital (State Council Circular 2010/9), Section 2, Point 8 and Point 9.

[54] See the State Council's Guiding Opinions on the Central and Western Regions' Receipt of Industrial Transfers (State Council Circular 2010/28, 31 August 2010).

[55] Small-scale, low-profit enterprises are: industrial enterprises whose total assets are less than RMB 30 million, with annual taxable income below RMB 300,000, and with fewer than 100 employees; or other enterprises whose assets are less than RMB 10 million, with annual taxable income lower than RMB 300,000, and with fewer than 80 employees.

[56] Opinion of the State Council on Further Supporting the Sound Development of Small and Micro Enterprises (Guo Fa [2012] No. 14).

[57] The Special Economic Zones entitled to preferential policies are Shenzhen; Zhuhai; Shantou; Xiamen; and Hainan Province.

[58] The coastal open economic areas originally referred to the 14 coastal open cities designated in 1984, including Dalian, Qinhuangdao, Tianjin, Yantai, Qingdao, Lianyungang, Nantong, Shanghai, Ningbo, Wenzhou, Fuzhou, Guangzhou, Zhanjiang, and Beihai. They were the second set of regions opened to the outside world, following the special economic zones. In 1985 the Yangtze River Delta, the Pearl River Delta, and the triangle area of Xiamen, Zhangzhou, and Quanzhou cities in Fujian Province were included in the coastal open economic areas. In 1988 the areas were further expanded to the Liaodong Peninsula, the Shandong Peninsula, etc. to include 153 cities and counties in Tianjin Municipality, Hebei Province, Liaoning Province, Jiangsu Province, Zhejiang Province, Fujian Province; Shandong Province, and Guangxi Zhuang Autonomous Region. In 1990, the city of Jinan was also included. In 1992, five cities along the Yangtze River, namely Chongqing, Yueyang, Wuhan, Jiujiang, Wuhu, 6 provincial capital cities in border and coastal provinces and autonomous regions, namely Harbin, Changchun; Hohhot, Shijiazhuang, Nanning and Kunming, and 11 provincial capital cities of inland provinces and autonomous regions, namely Taiyuan, Hefei, Nanchang, Zhengzhou, Changsha, Chengdu, Guiyang, Xi'an, Lanzhou, Xining, and Yinchuan began to implement the policies of the coastal open economic areas. In 1993, the city of Huangshi on the Yangtze River also began to implement the policies of the coastal open economic areas.

[59] The Three Gorges of the Yangtze River Economic Zone include Yichang County, Zigui County, and Xingshan County under the jurisdiction of Yichang City in Hubei Province, Badong County of the Enshi Tujia,

conditions (e.g. foreign-invested enterprises or enterprises recognized as high and new technology enterprises) may benefit from a lower Enterprise Income Tax.[60] Tax exemptions are also granted to high-tech enterprises that require support from the State and have been registered since 1 January 2008 in any special economic zone (i.e. Shezhen, Zhuhai, Shantou, Xiamen, and Hainan) and in the Pudong New Area of Shanghai. Income earned in any such zone is exempted from EIT for the first two years following the initial year in which income derived from production or operations is earned, and subject to EIT at half of the 25% statutory tax rate between the third and fifth years.

2.5.4 China (Shanghai) Pilot Free Trade Zone (CSPFTZ)

2.77. On 17 August 2013, the State Council officially approved the establishment of the China (Shanghai) Pilot Free Trade Zone (CSPFTZ). The CSPFTZ covers the four specially supervised Customs zones: the Waigaoquiao Free Trade Zone, the Waigaoquiao Bonded Logistics Park, Yangshan Free Trade Port Area, and the Pudong Airport Free Trade Zone, in accordance with the *Circular of the State Council on Printing and Distributing the Overall Plan for China (Shanghai) Pilot Free Trade Zone* (GuoFa [2013] No.38).

2.78. The authorities indicated that the launching of the CSPFTZ is a national strategy to deepen reforms. Since it is a Pilot Zone, policies will be tested in the Zone and this will serve as a showcase for further trade and investment liberalization nationwide. The authorities also indicated that Shanghai was chosen because it had traditionally been at the forefront of China's reform policies. The CSPFTZ is meant to expand and open up the service sectors and to reform the investment administration mechanism, push forward trade transformation, deepen the opening up of financial services, and create a new mode of supervision and service.

2.79. The CSPFTZ is really the deepening of a process that started in 1990 with the establishment of bonded areas. The Waigaoquiao Free Trade Zone, the first bonded area in China, was approved by the State Council in June 1990. The second step was taken in December 2003, when the State Council approved the establishment of the Waigaoquiao Bonded Logistics Park. The Yangshan Free Trade Port Area, the first in China, was approved in June 2005, and finally in July 2009, the State Council approved the creation of the Pudong Airport Free Trade Zone, which was expanded in 2012. The purpose of these measures was to facilitate trade. A further step in this direction was the establishment in November 2009 of the Shanghai Free Trade Zones Administration, to oversee the functioning of the first three areas mentioned above (except Pudong Airport).

2.80. In 2013, it was decided to integrate all the special Customs supervision areas and establish a single Free Trade Zone, in which policies would be tested. In August, the CSPFTZ was established encompassing the four bonded areas, with a total surface of 28 km^2. The CSPFTZ was inaugurated on 29 September 2013. In the context of this Review, the authorities indicated that the zone has managed to attract a considerable amount of foreign investment during its first months of existence. Between the date of inauguration and mid-February 2014, 434 FIEs were established in the Zone, with a total investment of US$1.8 billion. The authorities also noted that the Zone has attracted investors from 40 countries and that investment has been strong in services: e.g., 89 financial companies were established during the period mentioned above, and 34 financial leasing companies. They noted further that trade from the Zone accounted for 27% of Shanghai's total trade (exports and imports).

2.81. One of the CSPFTZ's most important features is that it grants pre-establishment MFN treatment for FIEs on a trial basis. For the first time, with the exception of some bilateral agreements negotiated by China, a Negative-List approach is used for investors (see below) (Table A2.3). Projects outside the List need only to file; no verification of the project is necessary. Filing can be done online, and this is the procedure used in 90% of cases, according to the

and Miao Autonomous Prefecture in Hubei Province, Wushan County, Wuxi County, Fengjie County, Yunyang County, Kai County, and Zhong County under the jurisdiction of Wanxian City in Sichuan Province, Shizhu County under the jurisdiction of Qianjiang Prefecture, and Fengdu County, Wulong County under the jurisdiction of Fuling Prefecture of Sichuan Province, and Changshou County, Jiangbei County, Ba County, and Jiangjin City under the jurisdiction of Chongqing City.

[60] Programmes 11-14 and 16 contained in WTO document G/SCM/N/186/CHN, 21 October 2011 and programmes 6 and 10-13 contained in WTO document G/SCM/N/123/CHN, 13 April 2006.

authorities.[61] There is a single window for filing FIE projects and for establishment (and changes) of enterprises, which was opened at the Yangshan Free Trade Port Area in February 2014; documents go to all the institutions involved through this single window. In accordance with the *Procedures on the Filing Administration of Foreign Investment Projects Within the China (Shanghai) Pilot Free Trade Zone (2013)*, the project filing agency has up to ten working days after receiving the application materials to issue a decision on filing of the foreign investment project. According to the CSPFTZ's authorities, it takes four days to get the filing certificate and complete the registration (compared to an average of 29 days prior to the establishment of the Zone). Investments of Chinese enterprises registered in the Zone also require only filing.

2.82. In March 2014, a simplified reporting procedure was adopted, by which companies in the Zone need only to produce an annual report, instead of going through an annual inspection of their books, which was previously the case. The reports will be filed through an electronic platform in which the companies input their data. The authorities indicated that the platform would be operational by 1 March 2014. The exceptions to this are companies listed in the *Abnormal Enterprise Directory.*

2.83. Trade facilitation measures have also been introduced, including the simplification of customs procedures and improvement of regulations. A first-tier opening is currently applied, meaning that imported goods can be cleared at the port, before they reach the CSPFTZ. Enterprises are allowed to bring goods into the CSPFTZ with import manifests and an entry record list of goods before going through declaration formalities with the competent Customs authorities. A second-tier opening (between the Zone and the Chinese Customs territory) is envisaged, as information management is improved and upgraded. Other trade facilitation measures include the shortening of the quarantine period for animals, from 28 days to seven, and exemption from preshipment inspection requirements for used mechanical and electronic products.

2.84. The "Special Administrative Measures (Negative List) on Foreign Investment Access to the China (Shanghai) Pilot Free Trade Zone (2013)" (the "Negative List"), is mainly based on the "Framework Plan for the China (Shanghai) Pilot Free Trade Zone," and the "Catalogue of Industries for Guiding Foreign Investment (2011 Amended Version)", and sets out administrative measures applicable to foreign investment projects and establishment of FIEs in the CSPFTZ where "national treatment" is not granted. The Negative List is compiled according to the "Classification and Codes of National Economic Industries (2011)" and includes 18 sectors or industries.[62] Two sectors: public management, social security and social organizations; and international organizations, are not subject to the Negative List. The Negative List will be adjusted when deemed appropriate.

2.85. For areas falling outside the Negative List (except those domestic investment projects requiring verification as stipulated by the State Council), prior approval is no longer required for foreign investment projects. It is sufficient to file the investment contract and the articles of association of the FIE. The Negative List also applies to investments in the CSPFTZ by investors from Hong Kong, China; Macao, China; and Chinese Taipei. If more favourable treatment is available for qualified investors according to the *"Mainland and Hong Kong/Macao Closer Economic Partnership Agreements"* and their supplements, the *"Cross-Straits Economic Cooperation Framework Agreement"* and the follow-up *"Cross-Straits Agreement on Trade*

[61] The applicant for a foreign investment project that is under filing administration within the CSPFTZ must fill in the required form and submit the relevant information thereon, as well as the following materials to the project filing agency: (a) the enterprise registration certificate (business licence), and certificate of commercial registration (the personal identity card in the case of an individual investor) of the Chinese and foreign parties of the investment project, respectively; (b) the letter of intent to invest signed by the investors, and a resolution of the board of directors of the company with respect to capital increase or acquisition and merger or any relevant resolutions on capital contribution; (c) the certificate of real estate ownership, or land bid-winning notice (or letter of confirmation of land transaction, or contract of granting of state-owned construction land use right), or leasing agreement; and (d) any other related materials provided for by the relevant laws and regulations. *Procedures on the Filing Administration of Foreign Investment Projects Within the China (Shanghai) Pilot Free Trade Zone (2013).*

[62] The 18 service sectors open to further foreign and private capital range from finance, shipping, commerce to culture. Foreign companies are also allowed to provide specific types of telecommunications value-added services, including call centers, Internet information and related software technology services. Foreign travel agencies registered in the CSPFTZ can operate for overseas trips, except to Chinese Taipei. Entertainment agencies are allowed to solely provide performance brokerage business in Shanghai. Foreign companies must enter into a partnership with Chinese counterparts to open educational and vocational training, provide healthcare insurance services, and establish independent medical institutions.

in Services", and other free trade agreements signed by China, such treatment prevails over the Negative List.

2.86. The administrative rules are contained in the *Procedures for the Administration of China (Shanghai) Pilot Free Trade Zone*, promulgated by Decree No. 7 of the Shanghai Municipal People's Government on 29 September 2013. The Procedures established the China (Shanghai) Pilot Free Trade Zone Administrative Committee to specifically carry out reforms in the CSPFTZ, and undertake overall management and coordination of the relevant administrative affairs in the zone. The Administrative Committee, more specifically, has responsibility for: (a) promoting the implementation of various pilot reforms in the CSPFTZ, putting forward the policy-related measures and administrative management systems required; (b) taking charge of the administrative work in the areas of investment, trade, financial services, planning and land, construction, greening and city appearance, environmental protection, labour and human resources, food and drug supervision, intellectual property rights, culture, public health, and statistics within the CSPFTZ; (c) directing the administrative work of the departments of industry and commerce, quality supervision, taxation, and pubic security within the CSPFTZ; (d) coordinating the administrative work of the departments of customs, inspection and quarantine, marine affairs, and finance within the CSPFTZ; (e) undertaking the work related to anti-monopoly investigations; (f) taking charge of the provision of services and of law enforcement within the CSPFTZ. The Procedures are effective as of 1 October 2013.

2.87. The administrative rules call for the opening up and expansion of service sectors such as financial services, shipping, commerce and trade services, professional services, cultural services, and social services in the CSPFTZ and for exploring fields of possible service expansion.

2.88. Capital requirements have also been relaxed, replacing the requirement of paid-up capital with that of subscribed capital. It is up to the shareholders to determine the pledged capital contribution, as well as its mode and time-limit.

2.89. In accordance with the *Circular of the China Banking Regulatory Commission on Issues Concerning Banking Supervision in China (Shanghai) Free Trade Zone*, Yin Jian Fa [2013] No. 40, of 28 September 2013, Chinese-funded banks may carry out business in the CSPFTZ by establishing new branches or special institutions. The then existing Chinese-funded bank outlets in the four bonded areas of the CSPFTZ were allowed to upgrade to branches or sub-branches. Newly established or upgraded sub-branches within the CSPFTZ are free from restrictions. Qualified foreign-invested banks are allowed to set up subsidiaries, branches, special institutions and Sino-foreign equity joint-venture banks in the CSPFTZ. Sub-branches of foreign-invested banks are allowed to upgrade to branches. The Circular states that studies will be conducted with the aim of shortening the statutory period for a CSPFTZ representative office of a foreign bank to be allowed to upgrade to a branch, and the statutory period for a CSPFTZ branch of a foreign bank to be allowed to carry out RMB business.

2.90. Qualified large enterprise groups in the CSPFTZ are allowed to establish group finance companies, auto finance companies and consumer finance companies in the Zones; trust companies established in Shanghai are permitted to relocate into the CSPFTZ; national financial asset management companies may establish branches in the Zone, and finance leasing companies may establish specialized subsidiaries. Qualified private investors may set up banks, finance leasing companies, consumer finance companies and other finance institutions in the CSPFTZ. Institutions licensed to operate in the Zone may carry out cross-border investment and financing operations, including commodity trade finance, whole supply chain finance, offshore vessel finance, onshore loans against offshore guarantees, commercial instruments, etc. Banks and financial institutions in the CSPFTZ may promote financial services for cross-border investments, including cross-border M&A loans and project loans, guarantees for offshore loans, cross-border assets management and wealth management, etc. Qualified Chinese banks are allowed to engage in offshore banking business in the CSPFTZ.

2.91. Market access procedures for financial institutions were simplified, by eliminating the prior approval requirements for banks' sub-branches, and replacing it with a reporting requirement, and by setting up a "green channel" to grant market access for banks in the Zone.[63]

2.92. In accordance with the *Policies and Measures on the Capital Market for Supporting and Promoting the China (Shanghai) Pilot Free Trade Zone*, published by the China Securities Regulatory Commission on 29 September 2013, the China Securities Regulatory Commission (CSRC) will deepen capital market reform, and further promote its opening-up through a number of specific measures, including: (a) consenting to the establishment of the Shanghai International Energy Trading Center Co., Ltd. in the CSPFTZ by the Shanghai Futures Exchange, to be responsible for establishing a trading platform for international crude oil futures. Foreign investors may participate in domestic futures trading using the platform; (b) qualified entities and individuals in the CSPFTZ may make investments in foreign and domestic securities and futures markets; (c) foreign parents of enterprises in the CSPFTZ may issue RMB bonds in domestic markets; (d) securities and futures institutions may register and set up specialized subsidiaries in the CSPFTZ, and securities and futures institutions in the CSPFTZ may carry out over-the-counter (transactions of commodities and financial derivatives for domestic clients).

2.93. In accordance with the *Opinion by the China Insurance Regulatory Commission to Support the China (Shanghai) Pilot Free Trade Zone*, the CIRC decided to: (a) allow the establishment of foreign-invested specialized health insurance institutions in the CSPFTZ; (b) allow the establishment of CSPFTZ branches of insurance companies, and the development of cross-border RMB-denominated reinsurance business in the CSPFTZ; (c) allow pilot outbound investments by CSPFTZ insurance institutions, relaxing the relevant outbound investment restrictions for CSPFTZ insurance institutions; (d) allow world-known specialized insurance intermediaries as well as social organizations or individuals engaged in the reinsurance business to provide support for the development of insurance industry in the Zone; (e) permit the development of shipping insurance businesses in Shanghai, including shipping insurance institutions and brokers.

2.5.5 Bilateral investment treaties

2.94. By mid-May 2013, China had concluded 131 bilateral investment protection and promotion agreements. Between 2012 and 2013, China signed a tripartite agreement with Japan and Korea, the Republic of; and bilateral agreements with Canada, Chile and Tanzania. With the exception of the bilateral agreement with Canada, none of these agreements has yet taken effect.

2.95. Since 2011, China has signed agreements on avoidance of double taxation with Botswana, Ecuador and Uganda and revised its agreements with Denmark, France, the Netherlands, Switzerland and the United Kingdom. In the meantime, agreements with the following countries came into force: Belgium, Czech Republic, Denmark, Ethiopia, Malta, Syria and Zambia.

2.96. China revised its double taxation agreement with Switzerland in September 2013.

[63] The authorities have noted that "Green Channel" means streamlining the market access procedures for financial institutions by optimizing the supervision mechanism, so as to promote opening and competition among banks and financial institutions within the CSPFTZ.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures Directly Affecting Imports

3.1.1 Customs procedures and requirements

3.1. Customs procedures continue to be mainly regulated by: the Customs Law of the People's Republic of China (issued in 1987, and amended in 2000 and 2013); the Provisions of the People's Republic of China on the Customs Administration of Declarations for the Import and Export of Goods (GACC Decree No. 103 of 2003); and the Customs Rules on Administration of the Levying of Duties on Imports and Exports (GACC Decree No. 124 of 2005).[1] The General Administration of Customs of the People's Republic of China (GACC)[2], the national authority responsible for customs administration in China, issues administrative customs ordinances and announcements as required to introduce and enforce changes in customs procedures. Between January 2012 and October 2013, the GACC issued a total of 138 GACC Announcements and nine GACC Decrees, which have focused, *inter alia*, on issues such as: paperless procedures, the harmonization of customs procedures throughout the country, the imposition of anti-dumping duties, and tariff classification.[3] The decrees issued since January 2012 are related to issues such as: procedures to manage imports from LDCs which are subject to special preferential tariff treatment[4]; the implementation of free trade agreements[5]; and the implementation of new supervision procedures in special customs controlled areas[6] and of comprehensive experimental customs zones.[7]

3.2. Importers (and exporters) must register as foreign trade operators with the Ministry of Commerce of the People's Republic of China (MOFCOM) or its authorized bodies before filing customs declarations.[8] Foreign-invested enterprises (FIEs) may also register as foreign trade operators; FIEs require a copy of the certificate of "approval of foreign-invested enterprises" to register.[9] Import (and export) declarations must be made in paper and electronic format or totally paperless (see below)[10], and can be made either by a natural person or by a customs declaration enterprise.[11]

[1] For a full list of the laws and regulations concerning customs procedures, please refer to the GACC website. Viewed at: http://www.customs.gov.cn/Default.aspx?tabid=399 (in Chinese only).

[2] The Customs Law of the People's Republic of China. Viewed at: http://www.customs.gov.cn/Default.aspx?TabID=433&InfoID=3420 (in Chinese only).

[3] The full list of announcements and decrees may be viewed at: http://www.customs.gov.cn/tabid/49659/Default.aspx.

[4] China Customs management approach to special preferential tariff treatment of imported goods from LDCs (GACC Decree No. 210 of 1 July 2013). Viewed at: http://www.customs.gov.cn/publish/portal0/tab49660/info623255.htm (in Chinese only).

[5] Amendment to the implementation of the "Mainland and Macao Closer Economic Partnership Arrangement" (GAC Decree No. 207 of 31 March 2012). Viewed at: http://www.customs.gov.cn/publish/portal0/tab49660/info551065.htm; and Amendment of the "Mainland and Hong Kong Closer Economic Partnership Arrangement" (GACC Decree No. 206 of 31 April 2012). Viewed at: http://www.customs.gov.cn/publish/portal0/tab49660/info551066.htm (in Chinese only).

[6] Customs Supervision Measures for Hengqin New Area (GACC Decree No. 209 of 27 June 2013). Viewed at: http://www.china-briefing.com/news/2013/07/12/china-releases-customs-supervision-measures-for-hengqin-new-area.html#sthash.466Y44oD.dpuf or http://www.customs.gov.cn/publish/portal0/tab49660/info623256.htm (in Chinese only).

[7] China Customs regulatory approach to Pingtan comprehensive experimental zone (Trial) (GACC Decree No. 208 of 27 June 2013). Viewed at: http://www.customs.gov.cn/publish/portal0/tab49660/info623257.htm (in Chinese only).

[8] The documents required for registration do not seem to have changed since the previous Review. See the Rules for the Registration of Foreign Trade Operators, viewed at: http://www.mofcom.gov.cn/aarticle/b/e/200406/20040600239262.html (in Chinese only). The registration form for a foreign trade operator can be downloaded from: http://iecms.ec.com.cn/iecms/index.jspm (in Chinese only).

[9] The Rules for the Registration of Foreign Trade Operators, viewed at: http://www.mofcom.gov.cn/aarticle/b/e/200406/20040600239262.html (in Chinese only).

[10] In August 2012 China introduced a paperless customs clearance procedure, which is still a pilot project.

[11] The requirements that the customs declaration enterprises need to fulfil are stipulated in: "The Provisions of the Customs of the People's Republic of China for the Administration of Registration of Declaration Entities of 2007". Viewed at: http://www.customs.gov.cn/publish/portal0/tab399/info4475.htm.

3.3. Importers (and exporters) need to comply with the inspection and quarantine requirements of Customs and the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ), as stipulated by law and in the Catalogue of Import and Export Commodities Subject to Compulsory Inspection. The Catalogue is amended every year to add or subtract commodities as required for the protection of human, animal or plant health and the environment, and to prevent fraud and to safeguard national security.[12] The amendment implemented on 1 August 2013 added two tariff lines (lignite (whether or not pulverized, but not agglomerated) (HS 2702100000) and agglomerated lignite (HS 2702200000)) to the list of imports subject to inspection and quarantine requirements.[13]

3.4. Efforts to facilitate trade in China date back to 2006 with the reform of China's regional and customs transit system[14], under which Customs authorization could be given, at the port of entry, for goods to be transported to the final destination, where customs clearance would take place. Prior to the reform, goods had to obtain clearance at the port of entry and at the inland Customs.[15]. In 2006, China's E-Port, an electronic platform that operates as a "single window", was also launched.[16] China's E-Port connects 13 major port authorities. Through the "single window", traders can, *inter alia*, file on-line customs declarations and make payments in foreign exchange of duties.[17]

3.5. In order to facilitate trade China has launched a series of reforms to make customs procedures more efficient both for imports and exports. In 2009, China launched a pilot programme on the Reform of Classified Customs Clearance, which applies only in certain ports for imports but nationwide for exports. The Classified Customs Clearance refers to the classification of imports (and exports) according to risk level of enterprises based, *inter alia*, on credit rating, and compliance with the law. The Classified Customs Clearance applies to all imports (and exports) that are declared through China's Customs Clearance operating system (H2000 version); in the case of imports only for those that enter through the eligible ports.[18] In addition, under the Classified Enterprise Administration Reform[19], enterprises are classified in five different categories: AA, A, B, C, and D according to different criteria, including risk and credit ratings.[20] The customs clearance treatment applied will depend upon the enterprise classification. Enterprises with a higher ranking (AA and A) will benefit from more relaxed customs clearance procedures and can make customs declarations and have goods released at destination; category B enterprises are subject to intermediate customs clearance procedures, and C and D would be subject to stricter

The documents that need to accompany a customs declaration do not seem to have changed since 2006. For more details please refer to: WTO (2006) Trade Policy Review - China; and The Provisions of the People's Republic of China on the Customs Administration of Declarations for the Import and Export of Goods (GACC Decree No. 103 of 2003). Viewed at: http://www.asianlii.org/cn/legis/cen/laws/potprocotcaodftiaeog1158.

[12] Implementing Regulations for the Law of the People's Republic of China on Inspection of Import and Export Commodities, Order of the State Council of the People's Republic of China, No. 447. Viewed at: http://www.asianlii.org/cn/legis/cen/laws/irftlotprocoioiaec1072.

[13] GACC and AQSIQ Announcement No. 109 of 2013. Viewed at: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/lhgg/201308/t20130801_370419.htm (in Chinese only).

[14] Announcement No. 43 of GACC of 2006. Viewed at: http://www.gov.cn/gzdt/200608/10/content_359439.htm (in Chinese only).

[15] Goods that require import licensing are excluded from "the system of regional co-operation in customs clearance".

[16] Announcement of the State Council No. 36 of 2006. Viewed at: http://www.gov.cn/gongbao/content/2006/content_327798.htm (in Chinese only).

[17] For the main services offered by China's E-Port Project please refer to: *The Details of Applications of China's E-Port by the End of 2010*, viewed at: http://www.chinaport.gov.cn/xxmtg/index.htm (in Chinese only); and APEC, *Introduction of China e-Port*, submitted by China at the Single Window Working Group Capacity Building Workshop 4, Singapore 6-8 April 2009. Viewed at: http://aimp.apec.org/Documents/2009/SCCP/SWWG-WKSP4/09_sccp_swwg_wksp4_010.pdf.

[18] GACC Announcement No.33 of 2009. Viewed at: http://www.customs.gov.cn/publish/portal0/tab1/info174780.htm (in Chinese only); and Announcement No. 56 of GACC of 2010. Viewed at: http://www.e-to-china.com/tariff_changes/china_customs_practice/2010/0903/85925.html.

[19] Administrative Measures on Customs Administration of the Classification of Enterprises (Order No. 170 of 2008) revised in 2010 by GACC Order No. 197 of 2010. Viewed at: http://www.customs.gov.cn/publish/portal0/tab521/info247588.htm.

[20] For a full list of the enterprise classification criteria please refer to: The Provisions on Administration of the Classification of Enterprises (GACC Decree No. 197 of 2010). Viewed at: http://www.customs.gov.cn/publish/portal0/tab521/info247588.htm (in Chinese only).

control measures.[21] Enterprises may change category according to their performance. None of the trade facilitation measures implemented by China apply to goods subject to licensing or other restrictions.

3.6. In 2012, with the aim of further facilitating trade, China started implementation of the "*Reform of Paperless Customs Clearance*" to cover imports (exports) via air, sea and land.[22] Under this Reform the approved pilot enterprises graded B or higher could choose to clear customs either through a paper or paperless customs declaration via the China E-port System. "AA"-rated enterprises and "A"-rated manufacturing enterprises, which are approved by customs, do not need to submit electronic supporting documents when making a customs declaration. These electronic documents must be submitted within 10 days of customs clearance or upon request by China Customs. The supporting documents need to be kept by the enterprises. "A"-rated non-manufacturing enterprises and "B"-rated enterprises, which are selected by customs, must submit the supporting electronic documents along with the declaration form when making a customs declaration. Imports (exports) subject to licensing cannot be cleared using the paperless method.[23]

3.7. In addition to the ordinary importation regime, China has six additional import regimes including: the importation of goods at no cost to replace damaged products[24]; the importation of leased goods; temporary entry of goods, entry of goods for maintenance and repair; the importation of returned goods; and imports into special customs supervision areas.[25] Goods entering (and exiting) bonded zones, export-processing zones and other special customs supervision areas, as well as border trade imports (and exports) are subject to different customs procedures formulated by GACC, and other inspection and quarantine requirements, which are formulated by the AQSIQ with the GACC (Table A3.1).[26]

3.8. Although China is making efforts to harmonize customs procedures across the country, it is also promoting and creating "new special customs supervision areas" that are governed by special regulations. China also applies different customs procedures to specific customs areas, in some instances on a trial basis.[27] These pilot programmes are designed to assess whether policies would work and also to promote the development of certain areas and regions. However, according to guiding opinions issued by the State Council in 2012 the rules applied to such special customs supervision areas will be unified.[28]

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[21] GACC Announcement No. 56 of 2010 on Further Promotion of Classified Customs Clearance expanded the scope of classified customs clearance reform. Viewed at: http://www.customs.gov.cn/publish/portal0/tab399/info237228.htm (in Chinese only).

[22] At present the pilot programme is being implemented at all sites of 12 customs offices: Beijing, Fuzhou, Gongbei, Guangzhou, Hangzhou, Huangpu, Nanjing, Ningbo, Qingdao, Shanghai, Shenzhen and Tianjin. The remaining 30 customs offices are implementing a few of the pilot programmes for paperless custom clearance at only one or two sites.

[23] "*State Council Opinions on Promoting the Growth of Foreign Trade, 16 September 2012*". Viewed at: http://www.gov.cn/zwgk/2012-09/18/content_2227657.htm; and GACC Announcement No. 45, 2012 on Foreign-Trade Promotion Measures. Viewed at: http://www.e-to-china.com/tariff_changes/Policy_Focus/2012/1011/104566.html; and GACC Announcement No. 19 of 2013. Viewed at: http://www.customs.gov.cn/publish/portal0/tab399/info426260.htm (in Chinese only).

[24] Decree No.124 of the General Administration of Customs, of 4 January 2005.

[25] General Administration of Customs Decree No. 124 of 2005.

[26] Article 44 of Implementing Regulations for the Law of the People's Republic of China on Inspection of Import and Export Commodities, Order of the State Council of the People's Republic of China, No. 447. Viewed at: http://www.asianlii.org/cn/legis/cen/laws/irftlotprocoioiaec1072.

[27] Customs Supervision Measures for Hengqin New Area (GACC Decree No. 209 of 27 June 2013). Viewed at: http://www.china-briefing.com/news/2013/07/12/china-releases-customs-supervision-measures-for-hengqin-new-area.html#sthash.466Y44oD.dpuf or http://www.customs.gov.cn/publish/portal0/tab49660/info623256.htm (in Chinese only), and China Customs regulatory approach to Pingtan comprehensive experimental zone (Trial) (GACC Decree No. 208 of 27 June 2013). Viewed at: http://www.customs.gov.cn/publish/portal0/tab49660/info623257.htm (in Chinese only).

[28] Guiding Opinions of the State Council on Promoting the Scientific Development in Special Customs Supervision Areas (Guo Fa Number 58 of 2012). Viewed at: http://www.gov.cn/zwgk/2012-11/02/content_2256060.htm; and New Guidelines on Promoting the Development of Special Customs. Viewed at: Supervision Areas http://www.pwccustoms.com/en_W1/w1/recentdevelopments/assets/cn_customs_news_dec2012.pdf.

3.1.2 Customs valuation

3.9. According to the authorities, there have been no changes in China's customs valuation procedures. The legislation regulating customs valuation has not been amended since 2006.[29] Customs value continues to be determined on the basis of the transaction value, including the cost of transport and other charges associated therewith, and the cost of insurance. If the transaction value method cannot be used the customs authorities, after obtaining relevant information and consulting over price with the importer, determine the customs value by applying the following methods in sequential order: (a) transaction value of identical goods; (b) transaction value of similar goods; (c) deductive value; (d) computed value; and (e) reasonable means. At the request of the importer, the order of application of methods (c) and (d) could be reversed. According to the authorities, in 2012 and 2013 some 99% of all imports were valued according to transaction value.

3.1.3 Rules of origin

3.10. China continues to apply preferential and non-preferential rules of origin.

3.11. China last notified its non-preferential rules of origin to the WTO in 2002.[30] Non-preferential rules of origin continue to be defined in China according to the Regulations on the Origin of Imported and Exported Goods of 2005.[31] Non-preferential rules of origin are used to: apply the MFN tariff rate; ensure origin of goods subject to anti-dumping, countervailing and safeguarding measures; ensure that import quotas and tariff quota limits are imposed on specific countries; and determine the origin of imported goods purchased by the Government. According to the Regulations, for goods to originate in a country they have to be wholly-obtained in one country. If goods are produced in more than two countries, the country where the final substantive transformation is made determines the origin of the product. The basic criteria to determine substantive transformation is a change of tariff classification. If there is no change in tariff classification, value added can be used as a supplementary criterion; the value added should not be less than 30% of the total value of the product.

3.12. Preferential rules of origin apply in accordance with various preferential agreements signed by China or to grant preferential treatment to imports from LDCs.[32]

3.1.4 Tariffs

3.1.4.1 Applied tariffs and tariff structure

3.13. In China, duty rates on imports continue to comprise: MFN rates, agreement tariff rates, special preferential tariff rates, general tariff rates, and tariff quota rates; in addition, interim tariff rates, which are usually lower than MFN rates, are applied for a specific period of time - usually one year - and are actually the applied rate for that year.

3.14. Agreement rates apply to imports from countries and customs territories with which China has preferential trade agreements; there are two regional and nine bilateral agreements in force at present.[33] Special preference duty rates are unilateral preferences applied to imports originating in least developed countries.[34] General rates apply to: products whose origin cannot be determined;

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[29] Regulations of the People's Republic of China on Import and Export Duties of 1 January 2004. Viewed at: http://english.customs.gov.cn/publish/portal191/tab47813/info391174.htm; and WTO document G/VAL/N/1/CHN/5 of 11 April 2008.

[30] WTO documents G/RO/N/37, 3 June 2002 and G/RO/N/37/Rev.1, 2 August 2002.

[31] Decree of the State Council of the People's Republic of China No. 416, Regulations on the Origin of Imported - Exported Goods of PRC, 1 January 2005.

[32] For a complete list of China's rules of origin under arrangements signed prior to 2012, please refer to WTO (2012), "*Trade Policy Review – China*", Geneva or WTO document WT/TPR/S/264/Rev.1.

[33] APTA; ASEAN; Chile; Chinese Taipei; Costa Rica; Hong Kong, China; Macao, China; New Zealand; Pakistan; Peru and Singapore.

[34] Afghanistan; Angola; Bangladesh; Benin; Burundi; Central African Republic; Chad; Comoros; Democratic Republic of the Congo; Djibouti; East Timor; Equatorial Guinea; Eritrea; Ethiopia; Guinea; Guinea-Bissau; Lesotho; Liberia; Madagascar; Malawi; Mali; Mauritania; Mozambique; Nepal; Niger; Rwanda; Samoa; Sierra Leone; Senegal; Somalia; Sudan; Tanzania; Togo; Uganda; Vanuatu; Yemen and Zambia

countries that do not have a reciprocal trade agreement with China; non-WTO Members; WTO Members to which China does not afford MFN treatment; and some territories of EU Member States. According to the authorities, if a country appears in several lists, the most favourable rate applies. Interim duties are fixed annually by the Tariff Commission under the Regulations on Import and Export Tariffs, and usually apply from 1 January to 31 December of each year; interim duties are applied on an MFN basis and effectively replace the MFN duty for the lines that are affected. Interim duty rates are lower than the MFN rates and in certain instances the interim duty rate applies to just part of a tariff line.

3.15. China's applied MFN tariff in 2013 consists of 8,238 lines at the eight-digit level in the Harmonized System 2012; some 99.5% (7,385 lines) of the lines are *ad valorem* and 43 tariff lines are subject to non-*ad valorem* rates (35 lines have specific rates, 3 have alternate rates and 5 lines carry either an *ad valorem* rate, if the price is below or equal to a certain amount, or a compound rate, if the price is higher).[35] The tariff lines subject to specific rates are mainly in Chapters 37 (photographic or cinematographic goods, 28 tariff lines), 02 (meat and edible offal of poultry, 6 tariff lines), and 01 (products of animal origin, 1 tariff line). In addition, 47 tariff lines are subject to tariff rate quotas (section 4.1), including in HS Chapters 10 (wheat and meslin, maize, rice), 11 (cereal flours other than of wheat and meslin, cereal groats), 17 (cane or beet sugar), 31 (mineral or chemical fertilizers), 51 (wool, carded or combed), and 52 (cotton).

3.16. The tariff analysis presented here is based on the MFN rate, including the interim duty rates for 2013, which apply to 8.7% of the tariff lines, the out-of-quota rates, and the *ad valorem* equivalents provided by the authorities, which for each tariff line are at the same level as the bound rate. In those instances in which the interim duty rate applies only to part of the tariff line, the MFN rate has been used in the tariff analysis. Hence the averages presented in this report are an approximation of the levels of protection. An analysis of the tariff at the HS-10 digit level would be required to assess the exact levels of protection. However, the tariff at that level of disaggregation is not available.

3.17. The average applied MFN rate in 2013 was 9.4%, almost unchanged since 2011 and 2009 when the average stood at 9.5%. The tariff continues to be higher for agricultural products (WTO definition), at 14.8%, showing a slight decline from the averages calculated for 2009 and 2011 (Table 3.1). The average tariff on non-agricultural products has remained unchanged since 2009, at 8.6%. The percentage of tariffs that exceeded 15% (international tariff peaks) has declined slightly, to 14.4%, down from 14.9% and 14.8% in 2009 and 2011, respectively.

Table 3.1 China's tariff structure, 2009, 2011 and 2013

	MFN applied			Final bound[a]
	2009	2011	2013	
Bound tariff lines (% of all tariff lines)	100	100	100	100
Simple average rate	9.5	9.5	9.4	9.9
Agricultural products (HS01-24)	14.5	14.5	13.9	14.6
Industrial products (HS25-97)	8.6	8.6	8.6	9.0
WTO agricultural products	15.2	15.1	14.8	15.3
WTO non-agricultural products	8.6	8.6	8.6	9.0
Duty free tariff lines (% of all tariff lines)	9.4	9.4	9.8	7.5
Simple average rate of dutiable lines only	10.5	10.5	10.5	10.7
Tariff quotas (% of all tariff lines)	0.6	0.6	0.6	0.6
Non-*ad valorem* tariffs (% of all tariff lines)	0.7	0.7	0.5	0.0
Domestic tariff "peaks" (% of all tariff lines)[b]	2.1	2.2	2.1	2.4
International tariff "peaks" (% of all tariff lines)[c]	14.9	14.8	14.4	15.7
Overall standard deviation of tariff rates	7.5	7.5	7.5	7.5
Coefficient of variation of tariff rates	0.8	0.8	0.8	0.8
Nuisance applied rates (% of all tariff lines)[d]	2.7	2.7	2.9	2.6
Number of lines	7,867	7,977	8,238	8,238
Ad valorem	7,072	7,177	7,385	7,609
Duty-free	743	748	810	629
Specific rates	44	44	35	0
Alternate rates	3	3	3	0

(Ministry of Finance P.R.C. (2013), Customs Tariffs on Imports and Exports of the People's Republic of China, 2013. Beijing, China).

[35] These five lines correspond to HS 8521.10.11, HS 8521.10.19, HS 8521.10.20 (video recording or reproducing apparatus); HS 8525.80.12; and HS 8525.80.13 (certain television cameras).

	MFN applied			Final bound[a]
	2009	2011	2013	
Other[e]	5	5	5	0

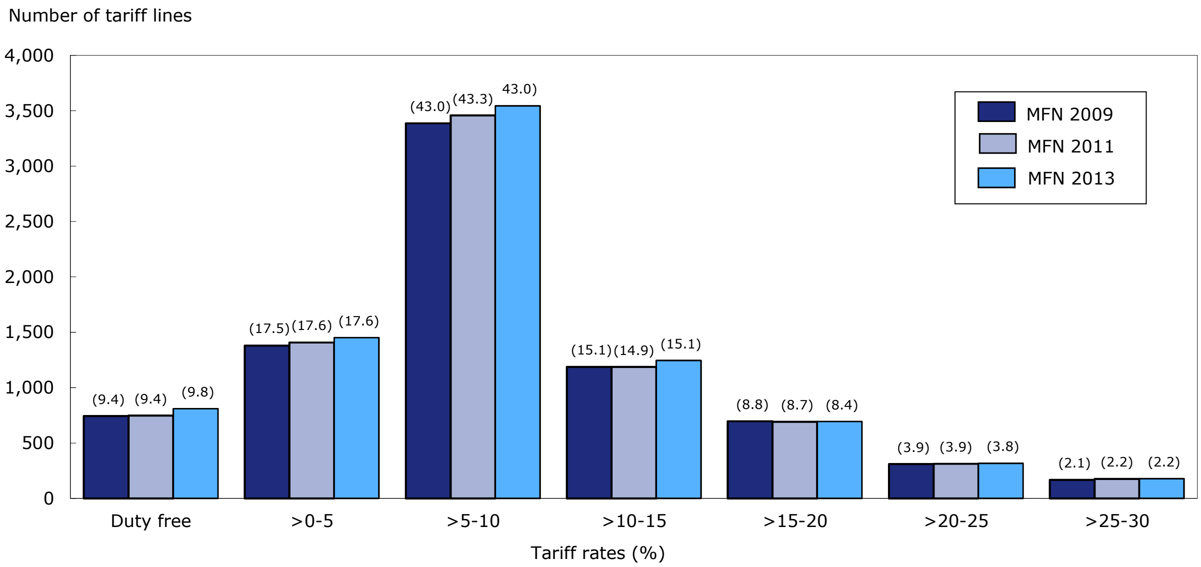
a Final bound rates are based on the 2013 tariff schedule in HS12 nomenclature.
b Domestic tariff peaks are defined as those exceeding three times the overall average applied rate.
c International tariff peaks are defined as those exceeding 15%.
d Nuisance rates are those greater than zero, but less than or equal to 2%.
e Rates involving either an *ad valorem* rate, if the price is below or equal to a certain amount, or a compound rate, if the price is higher.

Note: 2009 and 2011 tariff schedules are based on the HS 07 nomenclature; 2013 tariff schedule is based on the HS 12 nomenclature. Calculations are based on national tariff line levels (8-digit); including only out-of-quota rates and including AVEs for non-*ad valorem* rates provided by the authorities, as available. Interim duty rates are used for the calculations when fully applied at the 8-digit level.

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

3.18. The distribution of China's applied MFN tariff has not changed substantially since the last Review. In 2013, China's applied MFN tariff contained 55 different *ad valorem* tariff rates, ranging from 0% to 65%; in addition, there were 43 non-*ad valorem* rates. Some 40% of all tariffs ranged from 5% to 10%, also unchanged since 2009 and 2011 (Chart 3.1). The percentages of duty-free lines and of lines with rates higher than 30% have not changed.

Chart 3.1 Distribution of MFN applied tariff rates, 2009, 2011 and 2013



Note: Figures in parentheses denote the share of total lines.

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

3.1.4.2 Bound tariff

3.19. Since China joined the WTO, its average applied MFN rates have closely followed its bound rates. China bound 100% of its tariffs, at *ad valorem* rates ranging from 0% to 65% for agriculture (WTO definition) and from 0 to 50% for non-agricultural products (Table A3.2). There are considerable variations within the bound tariff rates by sector, with the higher bindings applying to cereals and preparations, and beverages and spirits (Table A3.2). However, while the applied tariff has been bound at *ad valorem* rates, applied tariffs on 43 tariff lines are non-*ad valorem*. The authorities state that the *ad valorem* equivalents of the non-*ad valorem* rates are always equal to the bound tariff rate.

3.1.4.3 Bilateral and regional preferences

3.20. China offers preferential treatment under its different bilateral and regional trade agreements. The ASEAN countries, Chile and New Zealand face the lowest tariff rates, while the concessions offered to the Special Administrative Regions (SARs) of Hong Kong and Macao and to Chinese Taipei do not result in significant tariff reductions (Table 3.2). The average preferential tariff applied to 37 LDCs was 5% at the beginning of 2013; these rates were substantially higher than those offered by China to the ASEAN countries. However, the authorities noted that as of 1 July 2013, 30 out of 37 LDCs enjoy duty-free treatment on 95% of all tariff lines.

Table 3.2 Summary analysis of the Chinese preferential tariff, 2013

(%)

	Total		WTO agriculture		WTO non-agriculture	
	Average (%)	Duty free rates[a] (%)	Average (%)	Duty free rates[a] (%)	Average (%)	Duty free rates[a] (%)
MFN	9.4	9.8	14.8	8.1	8.6	10.1
Agreement tariff rates						
APTA[b]	8.9	10.0	14.0	8.9	8.0	10.2
ASEAN						
Brunei Darussalam	0.7	94.8	1.8	93.5	0.6	95.0
Cambodia	0.8	93.9	1.9	92.9	0.7	94.0
Indonesia	0.7	94.8	1.8	93.5	0.6	95.0
Laos	0.8	93.9	1.9	93.3	0.7	94.0
Malaysia	0.7	94.8	1.8	93.5	0.6	95.0
Myanmar	0.7	94.8	1.8	93.6	0.6	95.0
Philippines	0.7	94.8	1.8	93.5	0.6	95.0
Singapore	0.7	94.8	1.8	93.5	0.6	95.0
Thailand	0.7	94.8	1.8	93.5	0.6	95.0
Viet Nam	0.7	94.8	1.8	93.5	0.6	95.0
Hong Kong, China CEPA[c]	7.1	30.8	12.6	21.3	3.2	32.4
Macao, China CEPA[c]	7.5	25.2	10.4	33.3	7.0	23.9
Chinese Taipei ECFA[d]	8.8	17.1	14.6	9.3	7.8	18.4
Pakistan FTA	5.9	35.7	11.5	23.2	5.0	37.8
Chile FTA	0.9	74.5	2.9	67.6	0.6	75.6
New Zealand FTA	0.5	96.7	2.2	91.3	0.2	97.6
Singapore FTA	4.6	43.5	8.8	41.5	3.9	43.8
Peru FTA	3.5	61.0	8.2	31.4	2.7	65.8
Costa Rica FTA	2.8	65.7	7.0	35.7	2.1	70.6
Least developed preferential rates						
Special preferential tariff agreement for:						
Bangladesh and Laos under APTA	9.2	11.0	14.7	8.1	8.3	11.5
Cambodia	8.7	15.8	12.0	29.4	8.2	13.6
Laos	9.0	13.7	12.8	23.1	8.3	12.2
Myanmar	9.0	13.6	13.7	14.9	8.2	13.4
37 LDC countries	5.0	61.5	9.1	56.6	4.3	62.3
Memorandum item:						
Bangladesh[e]	4.8	61.5	8.8	56.6	4.1	62.3
Cambodia[f]	0.8	94.1	1.8	94.0	0.7	94.1
Laos[g]	0.8	94.0	1.7	94.1	0.6	94.0
Myanmar[h]	0.7	94.8	1.8	93.6	0.6	95.0
Singapore[i]	0.7	94.8	1.8	93.5	0.6	95.0

a Duty-free lines as a percentage of total tariff lines.
b Preferential rates under APTA are applicable to Bangladesh, India, Laos, the Republic of Korea and Sri Lanka.
c Closer Economic Partnership Agreement.
d Cross-straits Economic Co-operation Framework Agreement.
e Based on lowest rates taken among 37 LDC countries, Bangladesh and Laos under APTA, and APTA preferential rates.
f Based on lowest rates taken among ASEAN-Cambodia, and special preferential rates for Cambodia.

g	Based on lowest rates taken among ASEAN-Laos, special preferential rates for Laos, Bangladesh and Laos under APTA, and APTA preferential rates.
h	Based on lowest rates taken among ASEAN-Myanmar and special preferential rates for Myanmar.
i	Based on lowest rates taken among ASEAN-Singapore and Singapore FTA.

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

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

3.1.4.4 Tariff concessions

3.21. Certain items continue to be exempt from import duties (Box 3.1). In addition, duty exemptions and reductions may apply in accordance with the provisions set out in the relevant regulations by the State Council and on goods imported into designated areas, for designated enterprises or for designated uses.[36] For instance, imported commodities are exempt from import duties and other taxes when entering areas under special customs regulations, and imports are devoted to specific purposes. Under processing trade, imported goods are exempt from payment of import duty, as long as they are processed and exported within a specific period of time; if the goods are not exported, import duties are collected by Customs.

Box 3.1 Goods exempted from import duties

Goods in a single consignment on which the duties are estimated to be less than RMB 50.
Advertising material and samples of no commercial value.
Goods and materials donated by international organizations or foreign governments.
Fuels, stores, beverages and provisions to be used en route by vessels which are in transit in China.

Source: Regulations on Import and Export Tariffs.

3.1.5 Other charges affecting imports

3.22. Imports are subject to Value Added Tax (VAT), which is collected by Customs on behalf of the State Administration of Taxation. VAT on imports is charged based on the c.i.f. price plus the import duty. If goods are also subject to the consumption (excise) tax, VAT is calculated including the consumption tax. VAT has two rates: 13% and 17%. Both the products subject to the 13% rate and those that are exempt have not changed since the previous Review.[37] Agricultural products sold directly by the producer continue to be exempted from VAT, while imported goods are not.[38]

3.23. A number of imported and domestically-produced goods are also subject to the consumption (excise) tax. Consumption tax in China is levied on different categories of products: products that could be harmful to health, social order and the environment (such as tobacco, alcohol, and fireworks); luxury goods (jewellery and cosmetics); and high-energy consumption and high-end products (passenger cars and motorcycles), and non-renewable and non-replaceable petroleum products (such as gasoline and diesel oil). Tax rates vary considerably depending upon the product; they can be *ad valorem*, specific or compound (Table 3.3). Modifications to the tax rates and the products subject to the tax can be introduced as required. However, rates have not changed since 2009.[39] The consumption tax is part of the base upon which VAT is levied.[40]

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[36] Article 46 of the Regulations of the People' Republic of China on Import and Export Duties, 1 January 2004. Viewed at: http://english.customs.gov.cn/publish/portal191/tab47813/info391174.htm.

[37] Products subject to a 13% VAT rate are: agricultural products; processed grains; edible vegetable oil and edible salt; drinking water, heating, air-conditioning, and hot water; gas, liquefied petroleum gas, natural gas, biogas and dimethyl ester; coal; books, newspapers and magazines; and feedstuffs, fertilizers, pesticides, agricultural machinery and plastic film for agricultural use (VAT, 28 September 2011). Viewed at: http://www.chinatax.gov.cn/n8136506/n8136608/n8138877/n8139027/8357269.html (in Chinese only).

[38] "*The Interpretation of VAT by the State Administration of Taxation*", VAT, 28 September 2011. Viewed at: http://www.chinatax.gov.cn/n8136506/n8136608/n8138877/n8139027/8357269.html (in Chinese only).

[39] The People's Republic of China Interim Regulations on Consumption Tax, The People's Republic of China State Council Order No. 539 of 10 October 2008 (in Chinese only). Viewed at:

Table 3.3 Excise (or consumption) tax, 2013

Product	2013
Tobacco	
Cigars	36%
Cigarettes:	
Production procedure	
Cigarettes, if the price is higher than RMB 70 per carton	56% plus RMB 0.003 per cigarette
Cigarettes, if the price is lower than RMB 70 per carton	36% plus RMB 0.003 per cigarette
Wholesaling procedure	5%
Cut tobacco	30%
Alcoholic drinks and alcohol	
White spirit distilled from grain, potatoes, or grapes	20% plus RMB 1 per kg
Yellow rice wine	RMB 240 per tonne
Beer made from malt and of a value above or equal to US$370 per tonne	RMB 250 per tonne
Beer made from malt and of a value less than US$370 per tonne	RMB 220 per tonne
Other alcoholic beverages	10%
Ethyl alcohol	5%
Cosmetics (apart from skin-care products)	30%
Precious jewellery, pearls, jade and precious stones	
Gold, silver, platinum jewellery, and diamonds	5%
Pearls, jade, and precious stones	10%
Firecrackers and fireworks	15%
Gasoline	
Motor gasoline and aviation gasoline (containing more than 0.013 g of lead per litre)	RMB 1.4 per litre
Motor gasoline and aviation gasoline (containing less than 0.013 g of lead per litre)	RMB 1.0 per litre
Diesel oil	RMB 0.8 per litre
Aviation kerosene	RMB 0.8 per litre
Naphtha	RMB 1.0 per litre
Solvent	RMB 1.0 per litre
Lubricants	RMB 1.0 per litre
Fuel oil	RMB 0.8 per litre
Motor vehicle tyres	3%
Motorcycles	
With a cylinder capacity less than or equal to 250 ml	3%
With a cylinder capacity over 250 ml	10%
Motor vehicles	
Passenger vehicles with fewer than 9 seats	
- with a cylinder capacity of less than 1,000 ml	1%
- with a cylinder capacity of more than 1,000 ml but less than 1,500 ml	3%
- with a cylinder capacity of more than 1,500 ml, but less than 2,000 ml	5%
- with a cylinder capacity of more than 2,000 ml, but less than 2,500 ml	9%
- with a cylinder capacity of more than 2,500 ml, but less than 3,000 ml	12%
- with a cylinder capacity of more than 3,000 ml, but less than 4,000 ml	25%
- with a cylinder capacity of 4,000 ml or more	40%
Middle-size or light passenger vehicles for commercial purposes	5%
Yachts	10%
Luxury watches with a unit price higher than RMB 10,000	20%

http://www.chinatax.gov.cn/n8136506/n8136593/n8137537/n8138502/8527133.html; Ministry of Finance, State Administration of Taxation on the adjustment of refined oil import consumption tax, notice Cai Guan Shui [16 December 2008] No. 103 (in Chinese only). Viewed at: http://www.mof.gov.cn/preview/guanshuisi/zhengwuxinxi/zhengcefabu/200812/t20081230_104399.html; and Ministry of Finance, State Administration of Taxation on tobacco product consumption tax policy notice (Cai Guan Shui [16 September 2009] No. 84) (in Chinese only). Viewed at: http://www.chinaacc.com/new/63_67_/2009_6_4_wa522377441469002441.shtml.

[40] For more details on the method used to classify the products subject to the tax and the procedure for levying the tax please refer to: Ministry of Finance, State Administration of Taxation, Annotations to the Collection "Scope of Consumption Tax" (Guo Shui Fa [1993] No. 153). Viewed at: http://www.chinatax.gov.cn/n6669073/n6669088/8992908.html; and Ministry of Finance, State Administration of Taxation, Provisions on Some Specific Issues Concerning Consumption Tax (Guo Shui Fa [1993] No. 156). Viewed at: http://www.chinatax.gov.cn/n6669073/n6669088/8992445.html.

Product	2013
Golf equipment	10%
Solid wood flooring	5%
Disposable chopsticks	5%

Source*:* Information provided by the Chinese authorities.

3.1.6 Import prohibitions, restrictions, and licensing

3.24. China has three categories of imports: not restricted, restricted and prohibited. Most imported goods fall under the category of permitted; however, even these imports may be subject to automatic licences to monitor their volume for statistical purposes. MOFCOM and the GACC jointly issue an annual *Catalogue of Goods subject to Automatic Licensing*. In 2013, there were 442 tariff lines at the HS 8-digit level included in this Catalogue (Chart 3.2). There is an additional *Catalogue of Automatic Licensing for Solid Waste* that can be used as raw materials in China; the last Catalogue was issued in 2009.[41] Certain goods, including: goods imported for processing trade and then re-exported, goods imported by FIEs for their own use, samples or advertising material of a value of less than RMB 5,000, which are not subject to automatic import licensing.

3.25. Importers must apply for automatic licences. There do not seem to have been major changes regarding the process to obtain an automatic import licence nor on the terms of the licence since the previous Review.[42] Automatic import licences are valid for six months and usually only for one shipment. However, multiple licences can be obtained under one import contract, and for certain goods one licence can be used for as many as six shipments.

3.26. Restricted goods are administered through non-automatic licences and/or quotas. Import restrictions are maintained because of public security and welfare, and to protect exhaustible natural resources. MOFCOM together with the GACC and the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ), on an annual basis, issue a "*Catalogue of Import Goods Subject to Licensing*". In 2013 there were 86 lines at the HS 8-digit level subject to non-automatic import licensing (Chart 3.2). There are a few products (i.e. machinery and electrical equipment) that are subject to both non-automatic and automatic import licensing.[43] There is an additional "*Catalogue of Restricted Imports for Solid Waste*" that can be used as raw materials in China; the last Catalogue was issued in 2009.[44] For 2013, imports subject to non-automatic licences fall under two categories: used mechanical and electronic products and substances that deplete the ozone layer. As in the case of automatic licences, it appears that the terms and procedures to obtain a non-automatic import licence remain substantially unchanged since the previous Review in 2012.[45]

3.27. During the period under review, China has apparently not applied any import quotas.[46]

[41] Annex 3 of the Announcement on Amending Catalogues of Imported Wastes Management, No. 36 of 2009. Viewed at: http://english.mep.gov.cn/Policies_Regulations/policies/Solidwastes/200909/P020090911322248259263.pdf.

[42] For details regarding the procedure to obtain automatic import licences please refer to China's last notification under Article 7.3 of the Agreement on Import Licensing Procedures (WTO document G/LIC/N/3/CHN/9, 11 November 2010).

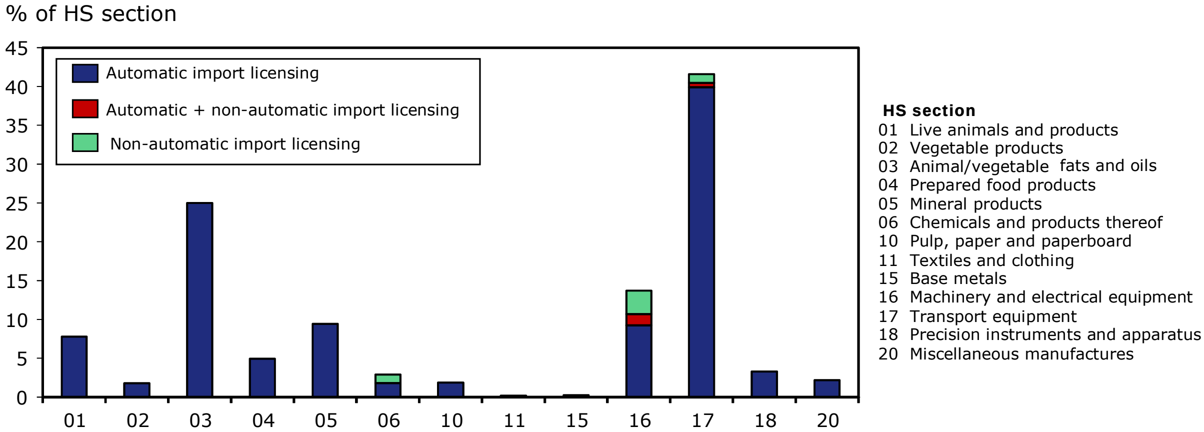
[43] According to the Chinese authorities, this conclusion is incorrect. They indicated that it might appear that machines require both licences because at the HS 8-digit level there is no differentiation between used and new machinery; used machinery is subject to non-automatic licensing while new machinery is subject to automatic licences. However, the difference for "old" and "used" machinery is clearly made in the Catalogue for Automatic Licensing but not in the Catalogue on Import Licensing.

[44] Annex 2 of the Announcement on Amending Catalogues of Imported Wastes Management, No. 36 of 2009. Viewed at: http://english.mep.gov.cn/Policies_Regulations/policies/Solidwastes/200909/P020090911322248259263.pdf.

[45] For details regarding the procedure to obtain automatic import licences please refer to China's last notification under Article 7.3 of the Agreement on Import Licensing Procedures (WTO document G/LIC/3/CHN/9, 11 November 2010).

[46] Import quotas were last notified to the WTO in 2009.

Chart 3.2 Import licensing by HS section, 2013



Note: Calculations include adjustments announced up to August 2013. Calculations are based on HS12 nomenclature at 8-digit level. There are 418 tariff lines subject to automatic import licensing only, 63 subject to non-automatic import licensing only and 24 subject to both automatic and non-automatic import licensing.

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

3.28. Under the Foreign Trade Law[47], China maintains import prohibitions on the following grounds: state security; public morality; human, animal and plant health; environmental protection; balance-of-payments reasons; and to comply with international commitments (Article 16 of the Foreign Trade Law). Prohibited products are listed in the "*Catalogue of Commodities Subject to Import Prohibitions*", issued by MOFCOM and other relevant ministries and bodies, such as the GACC and AQSIQ.[48] The last notification regarding import prohibitions dates from 2009, when imports of products classified under 543 tariff lines at the HS 2007 8-digit level were prohibited; no further information has been provided to the Secretariat since then. In addition to the general Catalogue, the Ministry of Environmental Protection issued the "*Catalogue of Imported Wastes Management*", also of 2009, which lists, *inter alia*, the solid wastes that cannot be imported into China.[49]

3.29. The list of imports subject to restriction or prohibition can be adjusted as necessary, and imports of goods that are not included in the Catalogue can be restricted or prohibited on a temporary basis by the relevant authorities. According to information provided by the authorities, in 2013 there were some 30 temporary prohibitions in place on sanitary grounds, which affected mainly animal products imported from European countries. In addition, since 1 October 2012, in order to improve energy efficiency and to protect the environment China has banned imports of incandescent lighting.[50]

3.30. China's legislation also allows the authorities to restrict imports to allow for the establishment of a particular domestic industry or to accelerate its development. Imports of agricultural, animal and fish products may also be restricted if the circumstances so require (Article 16 of the Foreign Trade Law). According to the authorities, this provision has never been used.

3.31. In addition to the general import prohibitions included in the "*Catalogue of Commodities Subject to Import Prohibitions*", other prohibitions apply to imports under processing trade. According to the authorities, the latest "*Catalogue of Commodities Prohibited under Processing*

[47] The Foreign Trade Law of the People's Republic of China. Viewed at: http://www.gov.cn/flfg/2005-06/27/content_9851.htm (in Chinese only).

[48] China last notified its quantitative restrictions to the WTO in 2010.

[49] Given the manner in which the items are listed in the Catalogue, the number of tariff lines affected by this restriction cannot be estimated ("*The Catalogue of Imported Wastes Management*", Annex 1 of Announcement No. 36 of 2009). Viewed at: http://english.mep.gov.cn/Policies_Regulations/policies/Solidwastes/200909/P020090911322248259263.pdf.

[50] National Development and Reform Commission (NDRC) [2011], Announcement No. 28. Viewed at: http://www.gov.cn/zwgk/2011-11/14/content_1992476.htm (in Chinese only).

Trade" and its amendment dates from 2009 and 2010.[51] These Catalogues include 394 tariff lines (in HS 2007 at the 8-digit level) that are subject to import prohibition under processing trade. These products include: mineral products; organic chemicals (e.g. anthracite, bituminous coking coal and lignite); fertilizers (e.g. urea, animal and vegetable fertilizers other than guano); new hides and skins; iron and steel; machines and electric equipment; waste and used scrap metal; and used mechanical and electrical products. According to the authorities, imports of these products are prohibited under processing trade for reasons of national security, environmental protection, or human, animal and plant health and safety concerns.[52]

3.1.7 Anti-dumping, countervailing, and safeguard measures

3.1.7.1 Anti-dumping measures

3.32. During the period under review, the number of anti-dumping measures in place has declined slightly compared to the number reported in the previous Review. However, the average length of the application of measures increased to slightly over six years, as all sunset reviews conducted in 2011 and the first half of 2012 have led to the duties remaining in force and half of the measures due to expire over the same period have also remained in force. In this respect, the authorities have noted that anti-dumping measures imposed by China will normally be terminated after 10 years.

3.33. China's main legislation with respect to anti-dumping was not modified during the period under review. The legal framework to conduct anti-dumping investigations and apply measures is provided by the Foreign Trade Law, as amended, which entered into force on 1 July 2004[53], by the relevant Regulations (the anti-dumping regulations)[54], and by a number of published Rules, some of them provisional.[55]

3.34. MOFCOM is the agency responsible for initiating and conducting anti-dumping investigations, and determining the existence of dumping, of injury, and their causal link. Two different bureaux within MOFCOM participate in anti-dumping investigations. The Bureau of Foreign Trade for Imports and Exports (BOFT) has responsibility for the investigation and determination of the existence of dumping, as well as for calculating the margin of dumping. The Investigation Bureau of Industry Injury (IBII) is charged with conducting investigations to determine the existence of injury caused to the domestic industry and the causal link between dumped imports and injury. However, in cases where an anti-dumping investigation involves agricultural products, the injury investigation is conducted jointly by IBII and the Ministry of Agriculture.

3.35. The Chinese authorities consider that the purpose of conducting anti-dumping investigations is to maintain a fair competitive environment and a normal trade order, and not to blindly protect domestic industries.[56]

3.36. The implementing rules regarding the initiation of anti-dumping investigations are contained in the "*Provisional Rules of the Ministry of Foreign Trade and Economic Co-operation on Initiation of Anti-dumping Investigations"*.[57] Investigations may be initiated at the request of an interested party or may be self-initiated by MOFCOM.

3.37. In the case of initiations on behalf of the domestic industry, petitions may be lodged with MOFCOM in writing, by natural or legal persons, or by any relevant organization, representing the domestic industry. Articles 13-15 of the anti-dumping regulations specify that the petition shall

[51] General Administration of Customs Announcement [2009] No. 37 of 2009. Viewed at: http://www.mofcom.gov.cn/aarticle/b/e/200906/20090606300331.html (in Chinese only); and Ministry of Commerce and General Administration of Customs, Joint Announcement [2010] No. 63 of 2010. Viewed at: http://www.customs.gov.cn/publish/portal0/tab519/info242951.htm (in Chinese only).

[52] The Central People's Government of China online information, at: http://www.gov.cn/jrzg/2007-04/10/content_577619.htm (in Chinese).

[53] Notified to the WTO in WTO document G/ADP/N/1/CHN/2/Suppl.4, 1 December 2004.

[54] WTO document G/ADP/N/1/CHN/2/Suppl.3, 20 October 2004.

[55] Notified to the WTO in WTO documents G/ADP/N/1/CHN2/Suppl.1, 2, 4, 5, and 6, of 18 February 2003, 14 April 2003, 1 December 2004, 11 January 2007, and 19 October 2007.

[56] Viewed at: http://gpj.mofcom.gov.cn/article/d/ci/201211/20121108441455.shtml.

[57] Notified to the WTO in WTO document G/ADP/N/1/CHN/2/Suppl.1, 18 February 2003.

have supporting evidence of the existence of dumping, of injury caused to the domestic industry, and of the causal link between dumping and injury. MOFCOM has 60 days from the date of receipt of a petition to decide whether to initiate an investigation. To self-initiate an anti-dumping investigation, MOFCOM must have sufficient evidence of the existence of dumping, of injury, and of a causal link. MOFCOM is responsible for determining the existence of dumping, injury, and causation, and the State Council Tariff Commission (SCTC), the coordination body of the State Council, makes the final decision as to whether to impose anti-dumping duties based upon a proposal by MOFCOM. This proposal is not a public document; a determination is published by MOFCOM after the SCTC has made its decision.[58]

3.38. MOFCOM, through the BOFT, may require the applicant to make amendments or provide supplementary information regarding the application for an anti-dumping investigation within the period specified above, failing which it may reject the application. If the application is rejected by MOFCOM, it is not published; a Public Notice is issued only if MOFCOM decides to initiate an anti-dumping investigation, before which it shall notify the governments of exporting countries (regions). Non-confidential information regarding an investigation is available to the public.[59] Interested parties may also apply for a public hearing regarding dumping or injury; the hearing may be open unless the BOFT or IBII consider that keeping information confidential warrants a different type of meeting.

3.39. On the basis of its findings, MOFCOM must make and publish a preliminary determination on dumping and injury, as well as on whether there exists a causal link between dumping and injury. If a preliminary determination is affirmative, provisional anti-dumping measures may be applied, after at least 60 days from the date of publication of the decision to initiate the investigation. Provisional measures may take the form of provisional anti-dumping duties, or a request to provide deposits, bonds, or other forms of guarantees. In the latter case, the decision is made by MOFCOM. The decision to apply provisional anti-dumping duties is made by the SCTC on the recommendation of MOFCOM. Provisional measures may not generally be applied for more than four months, but may be extended to nine months in "special circumstances", this being understood to refer to those cases where the authorities are examining whether a duty lower than the margin of dumping would be sufficient to remove the injury to the domestic industry.[60]

3.40. Whether or not provisional measures are applied, in the case of an affirmative determination MOFCOM must continue the investigation and, on the basis of its findings, make a final determination which must be published. Before the final determination is made, MOFCOM must inform all known interested parties of the essential facts on which the final determination is based. The investigation must be completed within 12 months of the date on which the decision to initiate is announced, or within 18 months under special circumstances. In accordance with the anti-dumping regulations, the imposition of anti-dumping duties must be in the public interest. However, there are no rules specifying how to do this and, with the exception of price undertakings, the issue has not been explicitly included as a factor for considering whether to impose a measure or not.

3.41. The margin of dumping is determined on the basis of a comparison of a weighted average normal value with a weighted average of prices of all comparable export transactions, or by a comparison of the normal value and export price on a transaction-to-transaction basis. However, if export prices differ significantly among purchasers, regions or time periods, a comparison may be made between a weighted average normal value and prices of individual export transactions. This method has not, however, been used so far. Anti-dumping duties may not exceed the margin of dumping established in a final determination. The anti-dumping regulations do not preclude the imposition of a duty less than the margin of dumping. In this respect, the authorities have indicated that China does not currently examine if a duty less than the margin of dumping is sufficient to eliminate the injury caused by dumped imports in final determinations.

[58] The SCTC has its offices in the Ministry of Finance, and the Tariffs Department of this Ministry is responsible for its daily work.

[59] Under Article 22 of the Foreign Trade Law, interested parties may request MOFCOM to treat the information they provide as confidential if they consider that disclosure would create significantly adverse effects. If MOFCOM decides to treat the information as confidential, interested parties are requested to provide non-confidential summaries.

[60] WTO document G/ADP/Q1/CHN/54/Suppl.1, 2 May 2005.

3.42. Chinese regulations allow for price undertakings which can be offered by the exporter or suggested to the exporter by MOFCOM. Price undertakings may be made only after MOFCOM has made a preliminary affirmative determination of dumping injury and causation. MOFCOM shall take into account whether accepting an undertaking would result in the elimination of the injury determined, as well as considerations of public interest, effective monitoring and possibility of circumvention. If the price undertaking is accepted, MOFCOM may suspend or terminate the anti-dumping investigation. However, a suspended/terminated investigation may be resumed if the exporter violates the price undertaking, or if MOFCOM considers it necessary for other reasons.

3.43. China's anti-dumping legal framework contains specific rules on sampling. Although MOFCOM shall normally, on the basis of a full-scale investigation, determine a separate margin of dumping for each individual responding exporter or producer, it may carry out its investigation by using a sampling method when the number of exporters, producers, types of products or transactions is so large that it would be unduly burdensome and prevent the timely completion of the investigation. MOFCOM is responsible for deciding on the selection of exporters and producers for the sample and for the reserve list[61], after which it must notify each interested party, giving seven days for comments. Only the selected exporters or producers will receive the questionnaire to be used for the investigation.[62] However, the exporters and producers on the reserve list may provide information to MOFCOM on a voluntary basis. MOFCOM determines a separate margin of dumping for each individual exporter and producer selected in the sample. The margin of dumping for responding exporters and producers who are not subject to individual examination is determined on the basis of the weighted average margin of dumping determined for the sampled exporters and producers, calculated excluding zero or *de minimis* (less than 2%) margins of dumping.

3.44. MOFCOM can also decide on the sampling of products to determine dumping and the margin of dumping if it finds that the number of types of product under investigation is too large. The procedures and means of determining dumping are similar to those used for exporter/producer sampling. Chinese regulations also allow for sampling of transactions to determine the normal value and export price for the product concerned. In this case, however, MOFCOM must obtain the agreement of the responding exporters and producers concerned. The normal value or the export price of the product under investigation is determined on the basis of the corresponding weighted averages.

3.45. Parties not satisfied with a MOFCOM decision may request an administrative reconsideration by the Department of Treaties and Law or may bring the case directly to court. The result of an administrative reconsideration may be appealed in court; procedures 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] The authorities indicated that there had been no administrative or judicial appeals with respect to anti-dumping measures in 2012 and 2013; however, there have been appeals in years prior to the review period. Importers may apply for a duty refund if they can provide evidence that the anti-dumping duty paid is higher than the margin of dumping. Applications are examined and verified by MOFCOM, which makes a proposal for decision to the SCTC. The application for refund must be made within three months of payment of the duty, under the "*Provisional Rules of the Ministry of Foreign Trade and Economic Cooperation on Refund of Anti-Dumping Duty*".[64] MOFCOM calculates an updated margin of dumping for the product for the six-month period prior to the application and refunds the difference with respect to the duty determined in the original investigation. No interest is paid on the refund. There have been no requests for refund during the period under review.

3.46. Article 56 of the anti-dumping regulations allows the authorities to take corresponding measures when a trading partner ''discriminatorily'' imposes anti-dumping measures on exports from China. However, the authorities reiterated during the current review that China has not applied Article 56, and that before taking corresponding measures in respect of a WTO Member China would resort to the relevant WTO dispute settlement provisions.

[61] The reserve list is prepared in case the sampled exporters and producers fail to cooperate.

[62] For selected exporters and producers that do not respond to the questionnaire, the margin of dumping is established on the basis of the facts available.

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

[64] Notified to the WTO in WTO document G/ADP/N/1/CHN/2/Suppl.1, 18 February 2003.

3.47. The "*Provisional Rules Governing New Shipper Reviews*", notified to the WTO in 2002, which came into effect on 15 April 2002, mandate that MOFCOM conduct a new shipper review and determine a separate margin of dumping for a new exporter that can show it is not related to any of the exporters subject to the anti-dumping duty.[65] Under the Rules, an interested party may apply for a review after the final determination in the original investigation has come into force and within three months of an actual export. The applicant for new shipper review must be the party which has actually exported to China the product under investigation after the original period of investigation in sufficient quantities as to constitute the basis for the determination of the ordinary export price, and whose exports are subject to anti-dumping duties as a result of the investigation. Within seven working days of receipt of the application for a new shipper review, MOFCOM must notify the applicant of the original anti-dumping investigation; the applicant may make comments within 14 days. MOFCOM will decide whether to initiate a new shipper review within 30 working days of receipt of the application, and will complete the review within nine months of initiation. The investigation period is six months prior to the submission of the application.

3.48. Final anti-dumping measures are imposed for five years, but may be extended following review. The anti-dumping regulations contain provisions regarding "expiry" (sunset) and "interim" reviews. With respect to sunset reviews, in practice MOFCOM publishes a notice six months before the measure is scheduled to expire, and initiates a review only if the domestic industry submits an application including sufficient evidence that expiry would likely lead to a continuation or recurrence of dumping and injury. MOFCOM may also initiate an interim review, *ex officio* or upon request of an interested party, provided that a reasonable period of time has elapsed. Reviews conducted by MOFCOM must be concluded within 12 months of the date of the decision to initiate the review. Preliminary determinations need not be made in interim reviews; sampling methods may be used. If there is no petition to conduct a sunset review, the anti-dumping measure is automatically terminated. A separate public notice indicating that the measure was terminated is issued.

3.49. Since 2011, there has been only one anti-dumping case in which the result of an investigation has been challenged, a request for administrative reconsideration has been submitted and litigation through the competent authority and court initiated. The product concerned was grain oriented flat-rolled electrical steel and the applicants were two Russian companies. This administrative litigation case is currently being adjudicated.

3.50. Initiations of anti-dumping investigations by China fell from 8 in 2010 to 5 in 2011, but increased to 9 in 2012 and 11 in 2013. Of the 22 investigations initiated between 2011 and mid-2013, around 60% resulted in provisional measures. The number of final anti-dumping duty orders issued fell from 15 in 2010 to 6 in 2011, 5 in 2012 and 8 in 2013. Initiations during the period mostly affected imports from the European Union; the United States; Japan; Republic of Korea, Brazil; India; and Canada. Most investigations in the period led to the application of duties: 10 out of 13 investigations started in 2010-11 resulted in final anti-dumping duty orders; all 4 investigations initiated in the first half of 2012 and terminated in the first half of 2013 resulted in the application of anti-dumping duties; of the 5 cases started in the second half of 2012, 2 had been subject to definitive anti-dumping duties by end 2013, in 2 cases provisional measures had been applied, and in one case the investigation was still ongoing. All 11 cases initiated in 2013 were still under investigation as at December 2013; provisional measures had been applied in 6 cases.[66]

3.51. China had 113 AD duty orders in effect as at 31 December 2013, slightly down from the 117 measures reported for December 2010 in the previous Review.[67] Imports from 16 countries or territories were affected. Imports from Japan are subject to the largest number of China's anti-dumping duty orders (22), followed by the United States (20), and accounting for 37.2% of the total; followed by the Republic of Korea (14.2%), the EU (13.3%) and Chinese Taipei (9.7%). Chemical products account for 62.8% of these orders, while 22.1% involve resins, plastics, and rubbers. Other categories subject to anti-dumping duty orders are machinery and equipment, paper, and base metal products, which account for a combined total of 14.2% of all

[65] WTO document G/ADP/N/1/CHN/2/Suppl.1, 18 February 2003.
[66] WTO document G/ADP/N/252/CHN, 5 February 2014.
[67] WTO document G/ADP/N/252/CHN, 5 February 2014.

orders (Table 3.4); 60.2% of anti-dumping duty orders had been in place for more than five years, up from 43% reported in the previous Review.

Table 3.4 Anti-dumping measures by product and by country (in force as at 31 December 2013)

Country	(a)	(b)	(c)	(d)	(e)	(f)	(g)	
Japan	14	3	1	3	1			22
United States	12	4	1	1	1	1		20
Korea, Rep. of	12	2		1	1			16
European Union	7	2	2	1	2		1	15
Chinese Taipei	6	5						11
Russian Federation	2	3	1					6
Singapore	3	2						5
India	4							4
Indonesia	2	1						3
Malaysia	2	1						3
Thailand	3							3
United Kingdom	1							1
France	1	1						2
Italy		1						1
New Zealand	1							1
Saudi Arabia, Kingdom of	1							1
Total	**71**	**25**	**5**	**6**	**5**	**1**	**1**	**114**

Products: (a) Products of the chemical and allied industries.
(b) Resins, plastics, and articles thereof; rubber and articles thereof.
(c) Base metals and articles thereof.
(d) Paper, paperboard, and articles thereof.
(e) Machinery and electrical equipment.
(f) Live animals and animal products.
(g) Prepared foodstuffs.

Source: WTO document G/ADP/N/252/CHN, 5 February 2014, China's Semi-annual Report under Article 16.4 of the Anti-Dumping Agreement.

3.52. Between 2011 and end-2013, 30 sunset reviews and 6 interim reviews were initiated. The number of investigations subject to a sunset review represents some 62.5% of the anti-dumping measures expiring during the period (30 out of 48). In addition, 17 orders expired without review between 2011 and 2013 and 5 were terminated because the application was rejected as the applicant did not provide sufficient evidence.[68] None of the 21 reviews initiated in 2011 and 2012 concluded with a revocation of measures; in all cases the application of anti-dumping duties was extended. The 2 interim reviews concluded by 30 June 2013 led to the application of anti-dumping duties. A new shipper review regarding saloon and cross-country cars of a cylinder capacity larger than 2500cc from the United States was initiated in October 2012.[69] As a result of the review, definitive duties were terminated as of 15 December 2013.[70]

3.53. In the WTO Committee on Anti-Dumping Practices, in the context of the review of China's anti-dumping investigation practices and measures, some Members have posed questions and made observations regarding China's anti-dumping procedures, including issues regarding transparency, injury determinations by MOFCOM and the standards used for this, including margin calculations, the communication between MOFCOM and Chinese customs authorities, and the disclosure of determinations and expiry review regulations.[71] In response to some of these comments, China noted that it had made continued and persistent efforts to fulfil the commitments made upon its accession to the WTO; China's anti-dumping regulations were clear

[68] WTO documents G/ADP/N/216/CHN, 12 October 2011; G/ADP/N/223/CHN, 17 April 2012; G/ADP/N/230/CHN, 26 September 2012; G/ADP/N/237/CHN, 10 April 2013; G/ADP/N/244/CHN, 17 October 2013; and G/ADP/N/252/CHN, 5 February 2014.

[69] The new shipper review referred to products classified under HS codes 87032361, 87032362, 87032369, 87032411, 87032412, 87032419, 87032421, 87032422, 87032429, 87033311, 87033312, 87033319, 87033321, 87033322, 87033329, 87033361, 87033362, 87033369, and 87039000. WTO document G/ADP/N/244/CHN, 17 October 2013.

[70] WTO document G/ADP/N/252/CHN, 5 February 2014.

[71] WTO documents G/ADP/M/41, 22 December 2011; and G/ADP/Q2/CHN/6, 10 December 2010.

and comprehensive and had been notified to the WTO, together with the related departmental rules.[72]

3.1.7.2 Countervailing measures

3.54. The main legal framework for the application of countervailing measures in China is contained in the Foreign Trade Law, the Regulations on Countervailing Measures (CV Regulations), promulgated in 2001, and amended on 31 March 2004[73], and a number of provisional published rules.[74]

3.55. The procedures for the conduct of countervailing (CV) investigations are in general similar to those described for anti-dumping investigations, although there are a few differences. One main difference is the involvement of the Government of the exporting country or territory in the investigations, through a process of consultations or by answering the CV questionnaire. These consultations must take place before the investigation is initiated. MOFCOM must invite the Government of the exporting country or territory to engage in consultations to clarify the issue and seek a mutually agreeable solution; if a solution is found, MOFCOM may decide not to initiate an investigation. The period for consultations must not exceed 60 days. Other differences include the absence of published rules for the use of sampling, and to conduct interim or judicial reviews. Also, there are no provisions to regulate the use of price undertakings to settle a CV investigation.

3.56. In accordance with Chinese regulations, the description of the alleged subsidy shall include information regarding the existence, nature and amount of the subsidy in question, as well as an estimated per-unit measure of the alleged subsidy. The applicant shall provide the legal documentation of the exporting country or region pursuant to which the alleged subsidy is granted, and describe the calculation of the per-unit estimated subsidy. Any hearing for the determination of a subsidy is to be held publicly unless permitted otherwise by the BOFT, in cases where State secrets, commercial secrets or personal privacy are concerned.

3.57. China initiated three CV investigations in 2012, involving saloon and cross-country cars (new shipper review), originating in the United States, and solar-grade polysilicon (HS 28046190), originating in the EU and the United States. No investigations were initiated in 2011 or in 2013.[75] In the two investigations initiated in 2010, the existence of a subsidy, injury and a causal link between the subsidy and the injury were found, thus leading to the imposition of CV duties. A case initiated in 2009 also led to the imposition of CV duties. As at 31 December 2013, there were three CV measures in place affecting imports from the EU and the United States (Table 3.5). A fourth measure that had been in place throughout most of the period under review regarding saloon cars and cross-country cars from the United States, which had been subject to a final anti-dumping duty of between 0% and 12.9% since 14 November 2011, was eliminated on 15 December 2013 as a result of a new shipper review.[76] No new definitive CV measures were applied in 2012 or in 2013. As at end 2013, the longest existing CV measure had been in place for slightly over three and a half years.

[72] WTO document G/ADP/M/41, 22 December 2011.

[73] WTO document G/SCM/N/1/CHN/1/Suppl.3, 20 October 2004.

[74] *Provisional Rules on Initiation of Countervailing Investigations; Provisional Rules on Questionnaires in Countervailing Duty Investigations*; *Provisional Rules on the Conduct of Public Hearings in Countervailing Duty Investigations*; and *Provisional Rules on On-the-spot Verification in Countervailing Duty Investigations*.

[75] WTO documents G/SCM/N/259/CHN/, 17 October 2013; and G/SCM/N/267/CHN, 5 February 2014.

[76] WTO document G/SCM/N/267/CHN, 5 February 2014.

Table 3.5 Countervailing investigations and measures, 31 December 2013

Country	Product	Initiation	Provisional measures	Final measures	Import volume as % of total imports
U.S.	Grain oriented flat- rolled electrical steel	01.06.2009	10.12.2009	10.04.2010	16.80%
			11.7%-12%	11.7%-12%	
			All others 12%	All others 44.6%	
	Broiler products	27.09.2009	28.04.2010	29.08.2010	73%
			3.8%-11.2%	4%-12.5%	
			All others 31.4%	All others 30.3%	
EU	Potato starch	30.08.2010	19.05.2011	16.09.2011	90.27%
			7.7%-11.19%	7.5%-12.4%	
				All others 12.4%	
			All others 11.19%		

Source: WTO documents G/SCM/N/267/CHN, 5 February 2014; G/SCM/N/259/CHN, 17 October 2013; G/SCM/N/250/CHN, 9 April 2013; G/SCM/N/242/CHN, 15 October 2012; and G/SCM/N/235/CHN, 18 April 2012.

3.58. Under the RTAs to which China has subscribed with Hong Kong, China and Macao, China the right to use CV measures between the parties has been waived. Under the RTAs between China and Chile, New Zealand and Pakistan, and ASEAN and Peru, the parties maintain their rights under the Anti-Dumping and Subsidies and Countervailing Measures Agreements.

3.1.7.3 Safeguards

3.59. The Foreign Trade Law and the Regulations on Safeguards (SG Regulations) regulate the procedures for safeguard investigations and the adoption of measures. Safeguard actions may be taken under the Foreign Trade Law and the Regulations on Safeguards (SG Regulations).[77] MOFCOM is the body responsible for investigating and determining an increase in imports and injury caused; in cases where an investigation involves agricultural goods, the investigation and determination of injury must be done jointly with the Ministry of Agriculture. To initiate an investigation, in accordance with the SG Regulations, the interested party - that is, any natural or legal person, or other organization related to a domestic industry - must make a written application to MOFCOM to take safeguard action against imports. MOFCOM may also initiate an investigation *ex officio* if it has sufficient evidence of injury. The decision to initiate an investigation must be published and notified promptly to the WTO Committee on Safeguards.

3.60. Under the SG Regulations, the applicant must provide detailed information with respect to the increase in quantities of the imported product for a period of at least five years prior to the submission of the application, including: the annual import quantity and value of the product in question; the absolute export quantity of the imported product from every exporting country (region) and its percentage of the total import quantity of the imported product; market share, in quantity and in value, of total domestic consumption, represented respectively by the imported product, the domestic like product and the directly competitive product; and an analysis of reasons for the increase in imports.

3.61. MOFCOM must make a decision on whether to initiate an investigation within 60 days of receipt of the written application for an investigation; in particularly complicated cases, an extension may be given to the time limit for examination. MOFCOM may conduct an investigation by means of questionnaires or on-the-spot verification of the issues raised in the written application and supporting materials.

3.62. MOFCOM may apply a provisional safeguard measure for no longer than 200 days from the effective date of the public notice. Final measures may take the form of tariff increases or quantitative restrictions. A decision to take a final measure in the form of tariff increases is made by the SCTC on the basis of MOFCOM's proposal; a decision to take a final measure in the form of quantitative restrictions is made by MOFCOM. The decision to apply a safeguard measure is published by way of Ministerial Decree on MOFCOM's website. Final safeguard measures may not remain in place for more than four years, except under special circumstances. MOFCOM must

[77] WTO document G/SG/N/1/CHN/2/Suppl.3, 20 October 2004.

conduct a mid-term review of the safeguard measure when its duration exceeds three years. There is no appeal mechanism against decisions taken by the authorities.

3.63. RTAs with New Zealand and Singapore provide that a party may exclude imports of a good originating from another party from a safeguard measure applied pursuant to Article XIX of the GATT and the WTO Agreement on Safeguards, provided that such imports are non-injurious. In contrast, the RTAs with ASEAN, Chile, Pakistan, and Peru provide that the parties maintain their right under Article XIX and the WTO Agreement on Safeguards. All six RTAs preclude the simultaneous imposition of a global safeguard and a bilateral safeguard under the relevant RTA.

3.64. China has not initiated any safeguard investigations pursuant to the WTO Agreement on Safeguards since its previous Review. As was pointed out in the previous Review, since its accession to the WTO in 2001, China has notified only one initiation of a safeguard investigation on certain steel products. The investigation was initiated on 20 May 2002, and definitive safeguard measures were imposed between 20 November 2002 and 26 December 2003.

3.1.8 Standards and other technical requirements

3.1.8.1 Standards and technical regulations

3.65. Standards in China continue to be developed mainly under the Standardization Law (of 1988) and the Regulations for the Implementation of the Standardization Law (1990).

3.66. There are four kinds of standards in China: national, industry/sectoral, local, and enterprise standards. National standards are developed for adoption at the national level. Industry/sectoral standards are developed when there are no national standards, but compliance with specific conditions is required in a professional field at the national level. Local standards may be developed where neither national nor industry/sectoral standards exist. However, once equivalent national standards are developed, these replace local and industry/sectoral standards. Similarly, enterprise standards may be developed for an enterprise when national, industry/sectoral or local standards are not available.

3.67. The Standardization Administration of China (SAC), under AQSIQ[78], continues to be the agency that centralizes the administration of the standardization system in China.[79] The SAC is assisted by the National Development and Reform Commission (NDRC), the State Food and Drug Administration, the China Association of Standards (CAS), a number of ministries, and local and industry standardization associations. In addition, the AQSIQ ensures that both imports and exports comply with technical regulations and certification requirements.[80] There are other organizations such as the China Association of Standards (CAS) and non-governmental organizations affiliated to AQSIQ that support SAC and other institutions in the development of standards through research and international cooperation to promote the use of best international practices in the development of China's standards so that they comply when possible with existing international standards. These institutions also disseminate the proper use and application of standards.[81]

3.68. The authorities noted that there has been no substantial change in the procedures to formulate standards, both voluntary and "mandatory" standards (as technical regulations are referred to in China), since the last Review. National standards are formulated by SAC, through

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[78] AQSIQ is a ministerial administrative organ in charge of national quality, metrology, entry-exit inspection, animal and plant quarantine, certification, accreditation, standardization, and administrative law enforcement.

[79] The SAC is in charge of: the overall coordination and unified management of China's national standardization; the development of national policies of standardization; the planning of national standardization strategy; and the sanctioning, issuing and revising of national standards.

[80] Law on Import and Export Commodity Inspection of 2002. Viewed at: http://www.china.org.cn/english/government/207371.htm; and the Regulations on the Implementation of the Law on Import and Export Commodity Inspection. Viewed at: http://english.mofcom.gov.cn/article/policyrelease/Businessregulations/201303/20130300045852.shtml.

[81] China Association of Standards (CAS). Viewed at: http://www.chinacsrmap.org/Org_Show_EN.asp?ID=539; and China National Institute of Standardization (known as the Institute of Standardization of the State Science and Technology Commission). Viewed at: http://en.cnis.gov.cn/faq/201305/t20130527_14361.shtml.

an eight-step process: feasibility study, research, project design, drafting of proposed standard, comments, examination, approval and publication. National standards are reviewed after five years of implementation and might be amended or annulled as required.[82] Industry/sectoral standards are formulated by the standardization administrations of the competent ministries, with the support of the industry institutes of standardization and technical committees. National and industry/sectoral standards must be published in the Standard Press of China, and filed and stored at the National Library of Standards. Local standards are formulated by departments of standardization authorities of provinces, autonomous regions and municipalities directly under the Central Government in accordance with the Administrative Measures on Local Standards.[83]

3.69. The procedures to develop and issue a standard and a technical regulation (also referred to in China as "mandatory" standard) are similar but there are some differences. When a technical regulation is to be developed, it must be stipulated that it will be mandatory; the examination procedure is different, and the period to receive comments cannot be less than two months. A (voluntary) standard could be quoted in a technical regulation and thus it would become mandatory. "Mandatory" standards refer usually to: medicines, food, veterinary drugs, and pesticides; labour and transportation safety; construction; environmental emissions; and technical terms (Table 3.6). The code of a mandatory national standard starts with the letters "GB".[84] The code of a mandatory local standard starts with "DB" and the code of the Province (e.g. Shanxi Province, mandatory local standard code: DB14/).[85]

Table 3.6 China's standards, 2010-13

	2010	2011	2012	2013 (January to May)
National standards	2,860	1,969	1,986	97
Mandatory	493	219	247	8
Voluntary	2,367	1,750	1,739	89
Sectoral standards	3,026	3,287	3,593	2,044
Mandatory	182	228	111	43
Voluntary	2,844	3,059	3,482	2,001
Local standards	2,520	2,448	3,293	1,757
Mandatory	149	149	239	82
Voluntary	2,371	2,299	3,054	1,675

Source: Information provided by the Chinese authorities.

3.70. China's TBT Enquiry Point continued to be AQSIQ. The Enquiry Point was responsible for preparing, checking and submitting China's TBT notifications. During the period under review, China submitted 167 TBT notifications, most of them (some 150) under Article 2.9. The majority of the technical regulations notified were applied to regulate the market and to protect human health, safety and the environment.[86] In the TBT Committee concerns were raised regarding, *inter alia*, the length of time to comment and the ability of foreign companies to comment.[87]

3.1.8.2 Product certification

3.71. Certification and accreditation continue to be regulated by, *inter alia*, the Standardization Law; the Product Quality Law; the Import and Export Commodity Inspection Law; the Regulations on Certification and Accreditation[88]; and the Regulations on Compulsory Product Certification.[89]

[82] The procedures to formulate national standards are stipulated in the Measures on Administration of National Standards, Order No. 10 of 24 August 1990. Viewed at: http://www.csms.org.cn/fagui/fagui_03.html.

[83] Viewed at: http://baike.baidu.com/view/1369197.htm.

[84] The code for a voluntary national standard starts with GB/T (Measures on Administration of National Standards Order No. 10 of 1990). Viewed at: http://www.csms.org.cn/fagui/fagui_03.html.

[85] The code for a recommended local standard is "DB../T" (e.g. Shanxi recommended local standard code: DB14/T) (Local standard management approach, National Bureau of Technical Supervision Order of 9 September 1990. Viewed at: http://www.sacmd.org/html//161.html).

[86] WTO documents G/TBT/N/CHN/ series from 2 January 2012 to 31 December 2013.

[87] WTO documents G/TBT/M/ series from 2 January 2012 to 31 December 2013.

[88] Viewed at: http://www.asianlii.org/cn/legis/cen/laws/rotprococaa658.

[89] AQSIQ Decree No. 117 of 3 July 2009. Viewed at: http://www.aqsiqccc.com/en/aqsiq/ccc-5.html.

3.72. China administers two types of certification: a voluntary certification and a compulsory certification system. China National Certification and Accreditation Administration (CNCA) under AQSIQ manages both systems.

3.73. China's compulsory product certification system was established in 2001 to enforce compliance with technical requirements. The system applies to both domestic products and imports. The products subject to compulsory product certification are listed in this "*Compulsory Product Certification Catalogue*" (the Catalogue). Products listed in the Catalogue cannot be sold in China or imported without China's Compulsory Certificates (CCC) and the corresponding CCC marks.[90] Random conformity sampling tests are conducted on imports that have already acquired CCC. The Catalogue is approved and released jointly by the AQSIQ and the CNCA.

3.74. In 2012, the Catalogue included some 157 products classified in 22 categories, including, electrical wires, circuit switches, low-voltage electrical apparatus, low power motors, electrical tools, household electrical appliances, audio and video equipment (excluding audio equipment for broadcasting service), information technology equipment, telecommunication terminal equipment, motor vehicles and safety parts, tyres for motor vehicles, safety glass, agricultural machinery, latex products, medical devices, fire-fighting equipment, safety protection products, wireless LAN (local area network) products, home décor, and remodelling products and toys.[91] In 2012, there were 629 tariff lines at the 10-digit level (431 at the 8-digit level) that were subject to the CCC mark. Most of the lines (83.5%) covered items in HS Chapters 84 (machinery and mechanical appliances), 85 (electrical machinery and equipment), and 87 (vehicles).[92] Some 25% of the goods (mainly automobiles) that require the CCC mark are also subject to automatic licensing, and non-automatic licensing applies to some 10% of the goods requiring the CCC mark, mainly electronic goods. In addition, 58% of all goods that require the CCC mark are also subject to quarantine or compulsory inspection.[93]

3.75. Applications for the CCC must be made to the authorized accredited certification bodies (ACB) designated by the CNCA, each of which is authorized to provide certification for several products subject to the CCC. There are 13 mandatory certification bodies.[94] The procedures to apply for compulsory certification have not changed substantially since the previous Review and are stipulated in the Mandatory Product Certification Regulations. In general there are five major steps in the CCC certification application process: (i) submission of an application and supporting materials; (ii) type-testing (a CNCA-designated test laboratory in China will test product samples); (iii) initial factory inspection (a CNCA-designated certification body will send representatives to inspect the manufacturing facilities for the product); (iv) evaluation of certification results and approval (or failure or retesting); and (v) supervision after the certificate is granted.[95] However, each certification body may have different application procedures, according to the product's characteristics.[96] CCC certificates are valid for five years from the date of approval of the application. Applications to renew the CCC certificate should be submitted 90 days prior to the expiry of the certificate.

[90] "*Administrative Measures for Compulsory Product Certification*" (Decree No. 5 of AQSIQ), effective on 1 May 2002.

[91] List of products subject to compulsory certification in English (unknown date). Viewed at: http://www.cnca.gov.cn/cnca/cncatest/20040420/column/227.htm; and CNCA Notice No. 36 of 2012 Mandatory product certification directory of products and corresponding HS2012 codes. Viewed at http://www.cnca.gov.cn/cnca/zwxx/ggxx/722154.shtml (in Chinese only).

[92] Mandatory product certification directory of products and corresponding 2012 HS codes. CNCA Notice No. 36 of 2012. Viewed at: http://www.cnca.gov.cn/cnca/zwxx/ggxx/722154.shtml (in Chinese only); and Catalogue of Products Subject to Compulsory Certification. CNCA Notice No. 30. Viewed at: http://www.cnca.gov.cn/cnca/zwxx/ggxx/719933.shtml (in Chinese only).

[93] Secretariat calculation.

[94] Amongst these are: China Quality Certification Centre; China Electromagnetic Compatibility Certification Centre; China Security Technology Certification Centre; China Agricultural Product Quality Certification Centre; China Safety Glass Certification Centre; China Committee for Conformity Certification of Tyres; China Certification Committee for Latex Quality; Product Conformity Assessment Centre; Ministry of Public Security Fire; China Automotive Certification Centre (CCC Compulsory product certification system FAQ). Viewed at: http://www.aqsiqccc.com/en/aqsiq/ccc-12.html.

[95] Certification bodies re-inspect the manufacturing facilities on a regular basis. The frequency of the follow-up inspection depends on the security level and quality stability of the product and the record of the manufacturer.

[96] Product-specific technical documentation required for submission can be found in the "*Implementation Rules for Compulsory Certification*". Viewed at: http://www.aqsiqccc.com/en/aqsiq/ccc-9.html.

3.76. Exemptions from the use of the CCC certification are possible (Box 3.2). To obtain an exemption, manufacturers or importers need to apply directly to the local inspection and quarantine bureaux. In addition, under special circumstances (i.e. "special use" or "special reasons"), certain goods, which are used as inputs and for household consumption, can be imported exempt from certification if they pass inspection.[97]

Box 3.2 Exemptions from the use of the CCC Certification

Goods exempt from CCC Certification:
Goods used by diplomatic agencies and for personal use.
Goods used by Hong Kong and Macao SAR agencies, and for personal use.
Goods brought by tourists into China for their own use.
Goods donated to the Government as aid and/or gifts.

Exemptions granted to address specific situations:
Goods used in research and testing.
Goods used to test production lines with the intention of importing technology.
Goods used to maintain equipment.
Equipment or parts used to complement the factory production lines/sets of production lines (excluding office supplies).
Goods for exclusive use in commercial exhibition.
Goods imported temporarily.
Parts of machines to be processed and then exported as a complete machine.
Spare parts or materials imported under materials processing trade.

Source: WTO (2012).

3.1.9 Sanitary and phytosanitary requirements

3.77. There have been no major changes in the legislation that regulates the SPS regime in China since the last Review. A myriad of laws and implementing regulations and rules continue to regulate China's SPS regime; some of these laws are outdated and repetitive (Table 3.7). Existing legislation stipulates the procedures to establish SPS requirements as well as to regulate imports subject to SPS measures, including aspects dealing with their inspection, quarantine and supervision.

Table 3.7 Laws and regulations related to China's SPS regime

Law	Promulgated/Amended
Law on the Entry and Exit Animal and Plant Quarantine	30.10.1991/27.08.2009
Regulations on Implementation of the Law on the Entry and Exit Animal and Plant Quarantine	02.12.1996
Law on Quality and Safety of Agricultural Products	29.04.2006
Animal Disease Prevention Law	03.07.1997/30.08.2007
Regulations on Plant Quarantine	03.01.1983/13.05.1992
Regulations on Control of Pesticides	08.05.1997/29.11.2001
Regulations on Control of Veterinary Drugs	21.05.1987/29.11.2001 and 09.04.2004
Regulations on the Administration of Feed and Feed Additives	29.05.1999/29.11.2001 and 03.11.2011
Law on Frontier Health and Quarantine	..
Law on Import and Export Commodity Inspection	..
Food Safety Law	28.02.2009
Rules and administrative measures	..
Measures for the Supervision and Administration of Inspection and Quarantine of Import and Export Aquatic Products	AQSIQ Decree No.135 of 2011
Measures for the Supervision and Administration of Inspection and Quarantine of Import and Export Meat Products	AQSIQ Decree No. 136 of 2011
Measures for the Prevention and Treatment of AIDS at Frontier	AQSIQ Decree No. 139 of 2011
Measures for the Supervision and Administration of Inspection and Quarantine of Import and Export Cosmetic Products	AQSIQ Decree No. 143 of 2011

[97] CNCA Announcement No. 38, 2008.

Law	Promulgated/Amended
Administrative Measures on the Safety of Import and Export Food	AQSIQ Decree No. 144 of 2011
Administrative Measures for Registration of Overseas Manufacturers of Imported Food	AQSIQ Decree No. 145 of 2012
Measures for the Supervision and Administration of Inspection and Quarantine of Import and Export Dairy Products	AQSIQ Decree No. 152 of 2013

.. Not available.

Source: Information provided by the Chinese authorities.

3.78. Another salient feature of China's SPS system is the fragmentation of regulatory authorities among different Government agencies. Currently the Ministry of Health (MOH), the Ministry of Agriculture (MOA), AQSIQ, the State Administration for Industry and Commerce (SAIC), MOFCOM, and the State Food and Drug Administration (SFDA) are actively involved in regulating the SPS regime (Table 3.8). This fragmentation of the SPS regulatory system presents a challenge regarding the enforcement and implementation of policies and specific measures as there could be an overlap of functions and thus an avoidance of responsibility and lack of accountability.

Table 3.8 Institutions in charge of the SPS system

Institution	Responsibility
Ministry of Health (MOH)	Responsible for food safety risk assessment and the formulation of food safety standards
Ministry of Agriculture (MOA)	In charge of implementing entry and exit animal and plant quarantine
General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ)	In charge of national quality, entry-exit commodity inspection, entry-exit health quarantine, entry-exit animal and plant quarantine, import-export food safety, certification and accreditation
State Administration for Industry and Commerce (SAIC)	In charge of regulating product quality and food safety in the market
State Food and Drug Administration (SFDA)	In charge of draft laws, regulations and rules to supervise food safety (including food additives), drugs (including traditional Chinese medicines), medical devices and cosmetics

Source: Information provided by the Chinese authorities.

3.79. According to the authorities, there have been no changes in any of the procedures to establish SPS requirements in China since 2010. China can prohibit imports of any animals and plants that originate in countries or regions with prevalent epidemics or plant diseases, based on a risk analysis, through a joint order issued by the Ministry of Agriculture and AQSIQ.[98] The prohibition can be lifted on the basis of scientific assessment. However, to lift a prohibition the country needs to submit an application to the relevant Chinese authorities once the epidemic has been controlled. The MOA and AQSIQ will jointly assess the application, and an on-site survey will be carried out to assess whether the steps taken to control the disease are in accordance with a risk analysis based on the principles stipulated by national and international organizations. Thereafter the MOA and AQSIQ will jointly solicit comments on the risk analysis report from the relevant national bodies. China will also submit the report to the countries affected by the prohibition to obtain their comments and feedback. If there are disagreements on China's assessment of the country's sanitary conditions, China might request more evidence to re-assess the risk based on the new evidence.

3.80. Inspection procedures for imports and exports subject to SPS measures have not undergone any changes since 2010.[99] All imports and exports listed under the Catalogue must be presented to the entry and exit inspection and quarantine authorities.[100] If the goods subject to statutory inspection have not been inspected, they are not allowed to be sold or used in the Chinese territory. Regarding imports, the Catalogue contained 2,032 tariff lines at the HS 8-digit level in 2013.[101] The last amendment, which took place on 1 August 2013, added two tariff lines (lignite (whether or not pulverized, but not agglomerated) (HS 27021000) and agglomerated

[98] Law on the Entry and Exit Animal and Plant Quarantine.
[99] Information provided by the authorities.
[100] AQSIQ has set up 35 Entry-Exit Inspection and Quarantine Bureaux (CIQ) in China's 31 provinces, with 300 branches and more than 200 local offices across the country to enforce the entry-exit inspection and quarantine requirements (information provided by the authorities).
[101] The exportable goods included in the 2013 Catalogue accounted for 2,051 tariff lines at the HS 8-digit level.

lignite (HS 27022000)) to the list of imports that are subject to inspection and quarantine requirements.[102] Some 80% of the goods subject to automatic import licensing are also subject to inspection and quarantine and some 35% of goods subject to non-automatic licensing were also subject to inspection and quarantine.[103]

3.81. There is an additional catalogue, the *Catalogue of Import Commodities Subject to Safety and Quality Permits*, that stipulates the general standards for goods that are highly sensitive in terms of safety, sanitation and environmental protection.[104] In addition, imports of waste, which can be used as raw materials, must be inspected before loading to prevent harmful waste from entering Chinese territory.

3.82. Foreign enterprises that manufacture, import, process and store food need to be registered with the Certification and Accreditation Administration of China before their related food products are imported into China.[105] Prior to 2012 firms were registered under the "*Provisions for the Administration of the Registration of Foreign Manufacturers of Imported Food of 2002*".[106]

3.83. China's national enquiry point for SPS continues to be the AQSIQ. Between 2011 and 2013, China made 286 notifications regarding the adopted SPS measures. Seven of these notifications were related to emergency measures: five were about the use of food additives and were put in place on grounds of food safety and to safeguard human health[107], and the other two were aimed at preserving plant health through the prohibition of imports of contaminated seeds, and of logs and timbers from certain territories.[108]

3.84. Also between 2011 and 2013, Members raised several concerns regarding measures imposed by China on grounds of sanitary conditions that have not been reported to the WTO. These measures include: quarantine and testing procedures for salmon[109]; testing methods for food additives; import conditions related to phthalates[110]; import restrictions on beef due to BSE[111]; and registration requirements for foreign companies importing food into China[112], and have been reiterated on several occasions. The authorities again indicated that these measures are based on WTO rules.

3.2 Measures Directly Affecting Exports

3.2.1 Export procedures and requirements

3.85. Exporters, like importers, must register with Customs before making customs declarations. Exporters must declare to Customs directly or entrust "a customs declaration enterprise" to make the declaration once goods arrive at the customs surveillance zone and 24 hours before loading, unless otherwise approved by Customs.[113]

3.86. Exporters must comply with the requirements of Customs AQSIQ which are stipulated in the "*Catalogue of Import and Export Commodities Subject to Compulsory Inspection*"[114], which is

[102] GACC and AQSIQ Announcement No. 109 of 2013. Viewed at: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/lhgg/201308/t20130801_370419.htm (in Chinese only).
[103] WTO calculation.
[104] Entry and Exit Quarantine Inspection. Viewed at: http://english.dg.gov.cn/Entry%20&%20Exit%20Quarantine%20Inspection%20Administration.htm.
[105] AQSIQ Decree No. 145 of 22 March 2012 (Provisions for the Administration of the Registration of Overseas Manufacturers of Imported Food).
[106] The latest *Catalogue of Registration of Foreign Manufacturers of Imported Foods*. Viewed at: https://cdn.chemlinked.com/file/OtherNews/The_Implementation_Catalogue.pdf.
[107] WTO documents G/SPS/N/CHN/360-576, May 2011 to February 2013.
[108] WTO documents G/SPS/N/CHN/601, 27 March 2013 and G/SPS/N/CHN/632, 29 November 2013.
[109] WTO documents G/SPS/R/63, G/SPS/R/64, G/SPS/R/66; G/SPS/R/67, G/SPS/R/69, G/SPS/R/70 and G/SPS/R/71, from 12 September 2011 to 28 August 2013.
[110] WTO documents G/SPS/R/70, 8 May 2013 and G/SPS/R/71, 28 August 2013.
[111] WTO documents G/SPS/R/63-71, from 12 September 2011 to 28 August 2013.
[112] WTO documents G/SPS/R/64, 17 January 2012; and G/SPS/R/66, 23 May 2012.
[113] The Provisions of the People's Republic of China on the Customs Administration of Declarations for the Import and Export of Goods (GACC Decree No. 103). Viewed at: http://www.gov.cn/gongbao/content/2004/content_62701.htm (in Chinese) [12 June 2013].
[114] According to the authorities, this Catalogue is now called Catalogue of Entry-Exit Commodities Inspected and Quarantined by Entry-Exit Inspection and Quarantine Organ.

amended every year to add or subtract commodities as required for the protection of health, the environment, and national security, and to promote steady export growth and adjust the export structure.[115] The last amendment, which took place on 1 August 2013, deleted some 1,507 tariff lines at the HS 10-digit level from the list of export items subject to inspection and quarantine requirements.[116] However, some items, such as dangerous chemicals, fireworks, lighters, toys and strollers, food products, automotive and other industrial products, and rare earths continue to require export commodity inspection.[117] Exports must be inspected where they are produced. In addition, the packaging for export of dangerous chemicals and other dangerous goods must undergo tests.[118]

3.87. The Reform of Classified Customs Clearance initiated in 2009 has been adopted by all Customs offices to facilitate export procedures.[119] Enterprises that export (like those that import) are classified into different groups based on risk analysis. Customs inspection and supervision depend on the enterprise's rating. Goods exported by high-risk enterprises are inspected while other exports can be released automatically.[120] The Reform of Paperless Customs Clearance initiated in 2012 is also expected to simplify export procedures.[121] Under this reform, Customs will base the clearance of goods on classified enterprise management and risk analysis and the classification of exports according to their risk levels. The customs declarations will be transmitted electronically by the enterprises at any time without presenting paper documents. Once the customs declaration is cleared, customs will send an electronic message to the enterprise and to the premises where the goods are stored indicating that the merchandise should be released for clearance.

3.2.2 Export taxes, charges, and levies

3.88. China continues to apply export taxes in accordance with the Regulations on Import and Export Tariffs.[122] The list of goods subject to "statutory" and interim export dutiesis issued every year.[123] Exports subject to statutory duties might also be subject to an interim duty, usually at a lower rate.[124] Interim duties varied from 5% to 35% in 2013. Exports that are subject to interim duties may also be subject to a special export duty which is applied according to the season and may be substantially higher than interim duty rates. For instance, the special export duty rate was 75% in 2013. Export duties are *ad valorem*, specific or they may take other forms as prescribed by the State; however, in practice, most of them are *ad valorem*.

3.89. Export duties are payable on the date when Customs accepts the export declaration, based on the transaction value of exports, and transport and insurance cost. Certain items are exempt from export duties (Box 3.3). Duty reductions or exemptions may also be granted for: exports into the special economic zones and other specially-designated areas; exports made by specific enterprises such as Chinese-foreign equity joint ventures, Chinese-foreign contractual joint ventures and enterprises with exclusive foreign investment; exports devoted to specific purposes

[115] Viewed at: http://www.gov.cn/jrzg/2013-08/01/content_2459772.htm.
[116] GACC and AQSIQ Announcement No. 109 of 2013. Viewed at: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/lhgg/201308/t20130801_370419.htm (in Chinese only).
[117] Viewed at: http://www.gov.cn/jrzg/2013-08/01/content_2459772.htm.
[118] Viewed at: http://www.gov.cn/jrzg/2013-08/01/content_2459772.htm.
[119] GACC Announcement No. 56 of 2010. Viewed at: http://www.customs.gov.cn/publish/portal0/tab399/info237228.htm (in Chinese only).
[120] GACC Announcement No. 33 of 2009. Viewed at: http://www.customs.gov.cn/publish/portal0/tab1/info174780.htm (in Chinese only); and more information concerning classified customs clearance can be found at: http://www.gov.cn/gzdt/2012-07/04/content_2176701.htm (in Chinese only).
[121] At present the pilot programme is being implemented at all sites of 12 customs offices: Beijing, Fuzhou, Gongbei, Guangzhou, Hangzhou, Huangpu, Nanjing, Ningbo, Qingdao, Shanghai, Shenzhen, and Tianjin. The other 30 customs offices are implementing a few of the pilot programmes for paperless custom clearance at only one or two sites.
[122] The Regulations on Import and Export Tariffs came into effect on 1 January 2004. Viewed at: http://english.customs.gov.cn/publish/portal191/tab47813/info391174.htm (in English).
[123] Regulations on import and export duties. Viewed at: http://english.customs.gov.cn/publish/portal191/tab47813/info391174.htm; The Tariff Implementation Plan of 2012 at http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201112/t20111215_615749.html and The Tariff Implementation Plan of 2013. Viewed at: http://www.gov.cn/zwgk/2012-12/17/content_2291986.htm (in Chinese) and http://www.tianyuky.com/en/NewsViews.asp?id=1745 (in English but not exact).
[124] Where exports are subject to both a statutory and an interim export duty, the interim duty applies.

and materials donated for public welfare use; and low-volume border transactions. According to the authorities, no such duty reductions have taken place.

Box 3.3 Goods exempted from export duties

Imported goods that are exported from the Customs territory within one year of the date of importation into the same State because they are damaged, of poor quality or do not conform to specifications.
Goods in a single consignment on which the duties are estimated to be not more than RMB 50.
Advertising material and samples of no commercial value.
Goods and materials donated by international organizations or foreign governments.
Fuels, stores, beverages and provisions to be used en route by vessels which are in transit in China.

Source: Regulations on Import and Export Tariffs.

3.90. Between 2011 and 2013, some 4.2% of all tariff lines at the HS 8-digit level were subject to export duties (including both statutory and interim) (Table 3.9).[125] Neither the goods subject to the statutory export duty nor the duty rates have changed since 2011. Goods subject to statutory export duty included, *inter alia*, phosphorus; ores, and concentrates of lead, zinc, tin, and tungsten; and base metals (iron, steel, copper, nickel and aluminium). For goods subject to statutory export duties and interim export duties, the rates of the latter are usually lower than those of the former, with the exception of those applied on three tariff lines (pig iron HS 7201.10.00, HS 7201.20.00, and HS 7201.50.00), which bear a statutory rate of 20% and an interim rate of 25%.

Table 3.9 Exports duty types by HS Chapter, 2013

HS Chapters	Export duties		Interim duties		Special duties	
	No. of lines	Range %	No. of lines	Range %	No. of lines	Range %
Total	**102**	**20-50**	**320**	**0-35**	**13**	**75**
03 Fish and crustaceans	1	20	0	n.a.	0	n.a.
05 Products of animal origin, nes.	4 (1)	40	1	0	0	n.a.
25 Earths and stone; plastering materials	0	n.a.	21	5-35	0	n.a.
26 Ores, slag and ash	7 (2)	20-50	32	0-20	0	n.a.
27 Mineral fuels, oils and waxes	0	n.a.	11	5-10	0	n.a.
28 Inorganic chemicals	3 (1)	20-30	79 (1)	5-25	1	75
29 Organic chemicals	1 (1)	40	1	0	0	n.a.
31 Fertilizers	0	n.a.	22 (12)	2-30	12	75
38 Miscellaneous chemical products	0	n.a.	1	10	0	n.a.
41 Raw hides and skins	2	20	0	n.a.	0	n.a.
44 Wood and articles of wood	0	n.a.	6	10-15	0	n.a.
47 Pulp of wood, paper or paperboard	0	n.a.	16	10	0	n.a.
72 Iron and steel	17 (5)	20-40	48	10-25	0	n.a.
74 Copper and articles thereof	32 (32)	30	34	0-15	0	n.a.
75 Nickel and articles thereof	4 (4)	40	5	5-15	0	n.a.
76 Aluminium and articles thereof	24 (24)	20-30	24	0-15	0	n.a.
78 Lead and articles thereof	0	n.a.	2	10	0	n.a.
79 Zinc and articles thereof	4 (4)	20	4	0-15	0	n.a.
80 Tin and articles thereof	0	n.a.	2	10	0	n.a.
81 Other base metals	3 (1)	20	11	5-15	0	n.a.

n.a. Not applicable.

Note: Figures in brackets under the column "export duties" refer to the number of tariff lines subject to both an export and an interim duty rate. Figures in brackets under the column "interim duties" refer to the number of tariff lines subject to both an interim and a special duty rate.

Source: Information provided by the authorities of China.

[125] In 2011, 99 tariff lines (HS 8-digit level) were subject to the statutory export tax; while in 2013 the splitting of lines at the HS 8-digit level increased the number to 102.

3.91. Interim export duty rates were levied on 310 tariff lines at the HS 8-digit level in 2011 and ranged from 0% to 75%, with the highest rates applying to fertilizers (HS Chapter 31). The number of products subject to interim export taxes increased in 2013 (320 tariff lines at the HS 8-digit level) as a result of an increase in the number of inorganic chemicals (HS Chapter 28) subject to duties. The duty rate levied on inorganic chemicals also increased from a maximum of 60% to 75% (including the special duty). In 2013, five products were subject to specific interim export duties.[126] The number of export products subject to special export duty rates increased in 2013 to 13 lines at the HS 8-digit level from 8 lines in 2011.[127]

3.92. China is the leading world exporter of certain products subject to export taxes, thus the application of export taxes could have an impact on world prices of these products.[128]

3.93. VAT on exports is 0% with the exception of VAT on exports of restricted goods.[129] However, according to the authorities, in principle, VAT on exports is refundable.

3.2.3 Export prohibitions, restrictions, and licensing

3.94. The State may restrict or forbid the exportation of any product to: maintain national security and public morality; protect human, animal and plant health; protect the environment; protect exhaustible natural resources that are in short supply or require "effective protection"; and organize "export business management"; or under any other circumstance as provided for in any law or administrative regulation. Exports may also be restricted or forbidden in order to comply with international treaties or agreements that China has signed.

3.95. As in the case of imports, MOFCOM, in collaboration with other relevant departments, formulates and issues a catalogue of goods restricted or forbidden for export. Export quotas or licences may be applied to any good subject to export restrictions. According to information provided to the Secretariat in the context of this Review, in 2013 the exportation of products classified under 65 tariff lines at the HS2012 8-digit level was prohibited. Export prohibitions applied, *inter alia*, to bones, ivory, natural sands (HS Chapter 25) asbestos, halogenated derivatives of hydrocarbons, organic chemicals (HS Chapter 29), unprocessed wood and some platinum products. The products subject to export prohibition remain unchanged since 2009, when China last notified its export prohibitions to the Secretariat.

3.96. China continues to impose global and destination-specific export quotas. In 2013, global export quotas applied to 193 tariff lines at HS 8-digit level, up from 180 in 2011.[130] The increase in the number of lines was due largely to a change in nomenclature and splitting of lines since, as of 1 January 2013, China eliminated global export quotas on bauxite, zinc ore/sand, coke, and carborundum. However, these products, with the exception of zinc ore/sand, are still subject to export licensing.

3.97. The list of products subject to quotas and the total amount of the quotas for the following year is published on 31 October of each year. Between 1 and 15 November of each year, exporters must apply for an export quota for the following year. Export quotas must be allocated before 15 December of each year, in accordance with Articles 38 and 39 of the "*Regulation of the People's Republic of China on the Administration of the Import and Export of Goods*". The allocation of quotas must be decided within 30 days of receiving the applications and no later than 15 December of the current year. Export quotas are allocated either by NDRC or MOFCOM directly, or through a bidding process. Once the exporter obtains a quota, it needs to apply for a licence

[126] These products were: phosphoric acid (HS 28092019), anhydrous ammonia (HS 28141000), ammonia in aqueous solution (HS 28142000), and potassium (HS 31042090 and HS 31043000).

[127] Twelve tariff lines under HS Chapter 31 (mineral or chemical fertilizers) and the additional line (ammonium chloride for use as fertilizer) (HS 28271010) were subject to special export duties in 2013.

[128] In 2012 China's exports of rare-earth metals, scandium and yttrium, whether or not intermixed or interalloyed (HS 280530), accounted for 62% of total world exports (United Nations Statistics Division (UNSD), Comtrade database).

[129] The Interpretation of VAT by State Administration of Taxation, 28 September 2011. Viewed at: http://www.chinatax.gov.cn/n8136506/n8136608/n8138877/n8139027/8357269.html (in Chinese only).

[130] Information provided by the authorities.

(Table 3.10). Unused quotas must be returned before the end of the year for which they were allocated. Exporters need to present the certificate of quotas to clear Customs.[131]

3.98. China applies three types of export licences: export quota licences, export quota bidding licences and export licences (Table 3.10). The different types of licences apply according to the restriction that applies to the goods.

Table 3.10 Products subject to export quotas and licensing, 2013

Products	Type of licence	Comment
Goods subject to quota and licensing		
Rice, maize, wheat, cotton, coal.	Export quota licensing	The quota is allocated by NDRC.
Live cattle, swine and chicken (for export to Hong Kong and Macao SARs); maize flour; rice flour; wheat flour; sawn timber; coke; crude oil; processed oil; rare earth; antimony and articles thereof; tungsten and articles thereof; zinc ore; tin and articles thereof; silver; indium and articles thereof; molybdenum; and phosphorus ore.	Export quota licensing	The quota is allocated by MOFCOM.
Chinese iris and its products; talc lump (powder); magnesium ore; and liquorice and its products.	Export quota bidding	The quota is allocated by MOFCOM.
Goods subject to licensing		
Live cattle, swine and chicken (for markets other than Hong Kong or Macao SARs); beef, pork and chicken meat; paraffin wax; platinum (through processing trade only); automobiles (including completely knocked down) and chassis; motorcycles (including all terrain motorcycles) and their engines and frames; vitamin C; industrial salts of penicillin; disodium sulphate; coke; carborundum; bauxite; fluorspar and some other metals and their products (excluding ferroalloy).	Export licence	A licence is granted if the exporter has the relevant export contract.
Substances depleting the ozone layer; natural sands (including standard sands); molybdenum products; and citric acid.	Export licence	An export permit is required before applying for a licence.

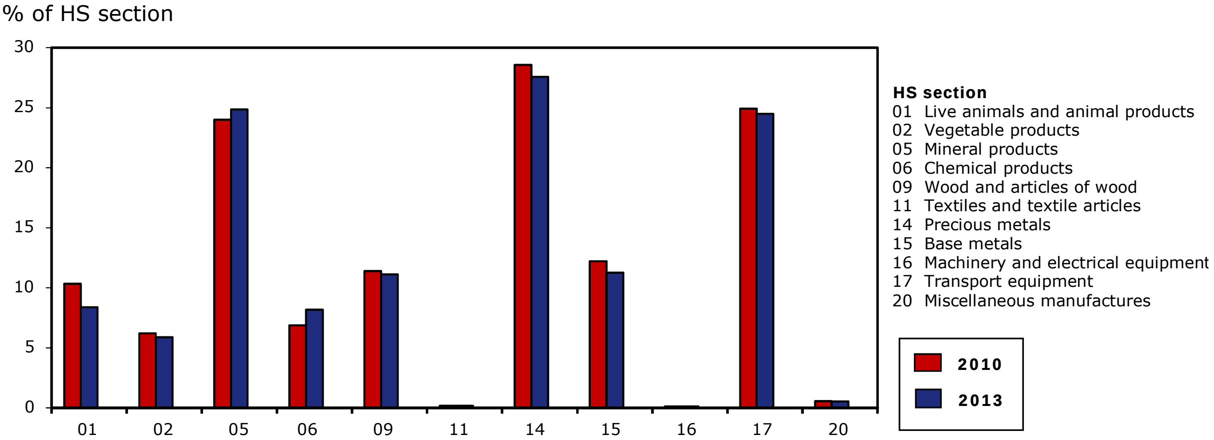
Source: Information provided by the Chinese authorities.

3.99. MOFCOM issues on a yearly basis a catalogue of export goods requiring licences (Catalogue of Goods Subject to the Administration of Export Licences).[132] The Catalogue includes two lists: one for export licences that apply to general trade, and one for export licences that apply to border trade. For 2013, there were 48 categories of goods subject to export licensing under general trade. The number of lines subject to export licensing increased from 428 tariff lines at the HS 8-digit level in 2010 to 450 lines in 2013, due largely to a change in nomenclature and splitting of lines. Thus, export licences continue to apply mainly to exports of precious metals (HS section 14), transport equipment (HS section 17) and mineral products (HS section 05) (Chart 3.3).

[131] Articles 40 and 41 of the Regulation of the People's Republic of China on the Administration of the Import and Export of Goods.

[132] Ministry of Commerce, General Administration of Customs [2012]. Announcement No. 97 of 31 December 2013. Viewed at: http://wms.mofcom.gov.cn/article/zcfb/c/201212/20121208503273.shtml (in Chinese only).

Chart 3.3 Export licensing by HS section, 2010 and 2013



Note: 2010 and 2013 calculations are based on HS 07 and HS 12 nomenclature at 8-digit level respectively. At the HS 8-digit level 428 and 450 tariff lines have an export licence, for 2010 and 2013 respectively. The difference in number is due to splitting of tariff lines.

Source: MOFCOM online information.

3.100. Non-automatic export licences are issued by MOFCOM's Bureau of Quota Licence Affairs, local offices of the MOFCOM commissioners, and certifying bodies under local commerce authorities. Export licences can be used only for one shipment. However, in certain instances the licence can be used for multiple shipments, including for goods exported by FIEs. Export licences are valid for a maximum of six months and must be used within the current year from the date of issuance. If an export licence is not used during the valid period, the operator can apply for an extension and a new export licence could be issued once the original one is revoked.

3.2.4 Export support and promotion

3.101. In its most recent notification to the WTO regarding export subsidies, China indicated that it did not maintain or introduce any export subsidies on agricultural products during 2011 or 2012.[133] No information was provided covering the period under review.

3.102. Exporters continue to be entitled to VAT rebates. Rebate rates are usually lower than the VAT paid. At present, rebate rates are: 17%, 16%, 15%, 13%, 9%, 5% and 0%. Certain goods are not eligible for a rebate.[134] VAT rebate rates as well as the goods that are not eligible for the rebate could change as the rebate has been used as a policy instrument to encourage or discourage exports, as necessary, to meet industrial development goals. For instance, in 2009 VAT rebate rates were increased on exports of certain products including: iron and steel; non-ferrous metals; petrochemicals; electronic and information technology products; and also some light industries such as textiles and clothing[135]; while in 2010 the VAT rebate on exports of certain products (406 tariff lines at HS 10-digit level), such as steel, non-ferrous metals processing materials, silver powder, starch, and ethanol; certain pesticides, pharmaceuticals and chemical products; and certain plastic products, rubber products and glass products, was eliminated.[136] According to the authorities, there have been no changes to the VAT refund rates since 2011 and the list of products eligible for VAT export refund and the refund rates can be viewed in the "Inquiry for Export Refund Rates" column on the website of the State Administration of Taxation.

[133] WTO documents G/AG/N/CHN/24, 17 December 2012; and G/AG/N/CHN/27, 7 March 2014.

[134] Products not subject to VAT rebate include: high-energy-consuming products, high-polluting, and those related to the use of resources; and endangered species of fauna and flora (information provided by the Chinese authorities).

[135] Trade Monitoring Database "TMDB".

[136] Information provided by the Chinese authorities making reference to the Circular by MOFCOM and the Ministry of Finance, Cai Shui No. 57 of 22 June 2010 [in Chinese only]. Viewed at: http://www.china-briefing.com/news/2010/06/24/china-cancels-export-rebates-on-406-products.html#sthash.cLX3WmLV.dpuf.

However, as this information is only available in Chinese the Secretariat was not able to confirm it.[137]

3.103. The authorities were unable to provide any other information regarding export support.

3.2.5 Export promotion and marketing assistance

3.104. China's overall objectives regarding trade promotion are to promote balanced development of imports and exports, improve competitiveness and increase participation of SMEs in trade.[138] Trade promotion activities are undertaken mainly by the Ministry of Commerce and its subordinate organizations, local commerce authorities and chambers of commerce. The two main organizations in charge of trade promotion are the Trade Development Bureau (TDB) under MOFCOM and the China Council for the Promotion of International Trade (CCIPT).[139] The CCIPT is a *non-*governmental organization which includes representatives from different sectors. Its main role is to promote trade through *inter alia* participation in trade fairs and exhibitions; sponsor and/or participate in domestic and overseas expos, provide enterprises with information on trade issues, and training including in trade law and the protection of intellectual property rights.

3.105. China also holds domestic exhibitions and trade fairs, such as the China Import and Export Fair ("Canton Fair") held twice a year in Guangzhou, which is sponsored by MOFCOM and the Guangdong Provincial People's Government. This is China's most comprehensive trade fair as it showcases the widest range of commodities and sellers, and it is an important platform for China to introduce new enterprises, especially SMEs, to international markets. China also holds other product-specific exhibitions. The CCIPT has also held a series of cooperation forums which are mainly for SMEs and aim to promote trade development.

3.106. China established a public commercial information service system for enterprises or individuals engaged in international trade activities. The service includes a hotline and public database. According to the authorities, in 2006 MOFCOM set up a hotline to provide one-stop services, accept daily complaints and consultations from enterprises seeking to reduce risks while undertaking overseas commercial activities.[140] The database contains economic and trade information to assist traders in identifying business opportunities.

3.2.6 Export finance, insurance, and guarantees

3.107. Export finance, insurance, and guarantees continue to be granted in China by at least two institutions playing broadly complementary roles. These are: the China Export-Import Bank (China Eximbank), and the China Export and Credit Insurance Corporation (SINOSURE). The China Development Bank (CDB) finances exports but according to the authorities, is not an official export finance institution.

3.108. The Export-Import Bank of China (China Eximbank), one of China's "policy banks", established in 1994 as a wholly state-owned bank, is the official export credit institution that provides export financing services in areas that social and commercial capital are unwilling to enter, such as high-risk export projects. Its mandate has not changed since the last Review in 2012. It continues to provide support for the import and export of capital goods (e.g. mechanical and electronic products, complete sets of equipment and new and high-tech products) and services. It also assists Chinese companies in undertaking overseas construction and investment projects. It promotes international economic cooperation as China's official provider of credit to developing countries and as China's recipient of foreign aid.

3.109. China Eximbank supports exports mainly through export buyer's credit and export seller's credit. Export buyer's credit refers to loans extended by Eximbank to overseas borrowers and export seller's credit are loans granted to domestic enterprises when exporting vessels,

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[137] State Administration of Taxation. Viewed at: http://www.chinatax.gov.cn [in Chinese only].

[138] China provides financial support to SMEs to participate in trade fairs. For further details please refer to Programme 49 listed in WTO document G/SCM/N/186/CHN, 21 October 2011.

[139] MOFCOM's official website can be viewed at: http://tdb.mofcom.gov.cn. [in Chinese only]; and the CCIPT's official website can be viewed at: http://www.ccpit.org [in Chinese only].

[140] The link to the official website of the Complaints Service Centre of MOFOCM for Overseas Commercial Affairs of Enterprises is: http://shangwutousu.mofcom.gov.cn [in Chinese only].

equipment, electromechanical products, agricultural products, cultural products and services. The authorities noted that loans are granted at commercial interest rates.

3.110. Eximbank also has special lines of credit and different financial instruments to service SMEs. For instance, SMEs can benefit from "unified borrowing" and repayment, separate borrowing and "unified insurance" and "unified insurance and custody". During the period under review, Eximbank "properly" increased the proportion of direct payment to SMEs that took loans with them. Eximbank also set up a "Green Channel" for the submission, examination and approval of loan applications submitted by SMEs.

3.111. In the context of this Review, China Eximbank was not able to provide the Secretariat with any more details on their export credit programmes. The authorities indicated that this information was confidential and could not be disclosed. However, they reiterated as at the time of the last Review in 2012, that even though China is not a member of the Arrangement on Officially Supported Export Credits of OECD (the "Gentlemen's Agreement"), in practice Eximbank followed the Gentlemen's Agreement.

3.112. Export seller's credit has increased since 2010 to reach in 2012 some RMB 175 billion in actual loans concluded by the Eximbank (Chart 3.4). These loans were allocated to the hi-tech products industry (35.30%), general electromechanical products (14.50%), vessel exports (10.50%) and equipment (7.01%).[141] Export buyers' credit also increased from 2010 to 2011 but showed a decrease in 2012 when the total amount of loans stood at RMB 42.5 billion. The amount of credit given by Eximbank to finance imports has also increased since 2010.

3.113. As part of its broader development mandate, China Development Bank (CDB), another fully state-owned bank, also provides export credit. CDB's mandate is to support the development of China's public infrastructure and strategic sectors. CDB aligns its business plan with national economic strategy and allocates resources to break bottlenecks in China's economic and social development.

3.114. China Export and Credit Insurance Corporation (SINOSURE), a state-owned insurance company, is China's official export credit insurance agency. SINOSURE offers *inter alia* long- and medium-term export credit insurance, overseas investment insurance, short-term export credit insurance, domestic credit insurance, credit guarantees, and reinsurance related to export credit insurance and debt collection services.

3.115. SINOSURE aims at promoting Chinese exports of goods, technologies and service, especially high-tech and high value-added capital goods like electromechanical products, and at assisting national enterprises to invest overseas, by providing insurance against non-payment risks. SINOSURE offers "policy-oriented insurance" and aims at continuing to serve the State strategy and at playing a more important role in supporting China's foreign trade development with the strategy of "go-abroad", safeguarding the security of the national economy, and promoting economic growth, employment and the equilibrium of the balance of payments.[142]

3.116. In 2009, SINOSURE increased its support to the key industries listed in the National Plan for Industrial Vitalization. For instance, since the photovoltaic (PV) industry was regarded as the national sunrise industry supported by the State, between January and July 2009, SINOSURE underwrote contracts for US$1.25 billion for exports from the PV industry, 6.2 times higher than the amount underwritten in 2008. During the first half of 2009, the penetration rate of export credit insurance for China's PV industry reached 46.3%. SINOSURE saw it as an example of the effect of efficiently applying policy-oriented export credit insurance and protecting Chinese enterprises against the risk associated with collecting foreign exchange from exports during an international financial crisis.[143] Since 2009, export credit insurance policy has been one of the most important means of supporting foreign trade in China. As a result, export credit insurance

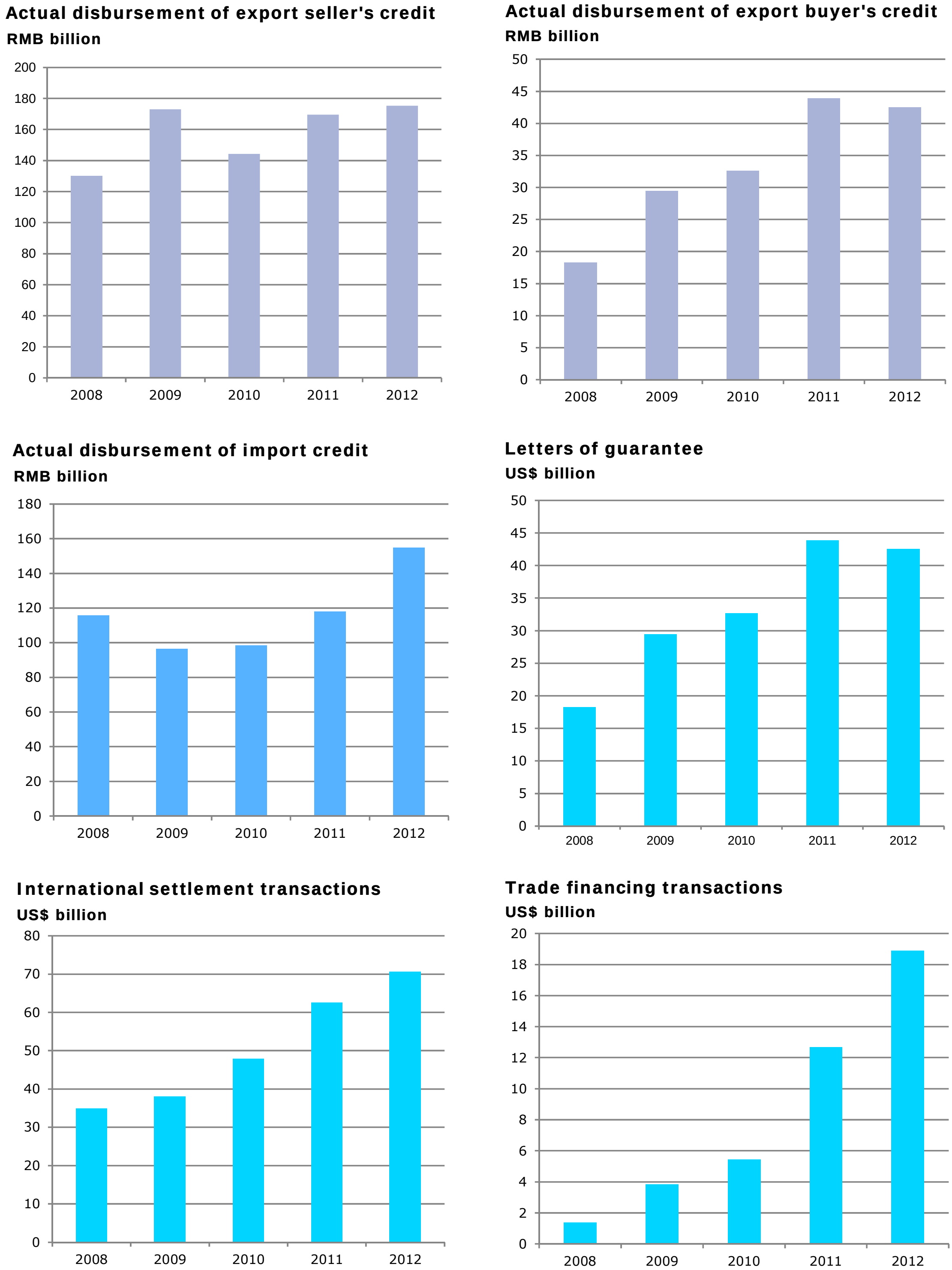
[141] Financial Report of the Export-Import Bank of China (2012). Viewed at: http://www.eximbank.gov.cn/tm/report/index_27_13319.html.

[142] Viewed at: http://www.sinosure.com.cn/sinosure/english/news_events/114266.html.

[143] Viewed at: http://www.sinosure.com.cn/sinosure/english/news_events/114266.html.

has increased rapidly in China, to reach US$216.24 billion in 2011, equivalent to 23.6% of total exports, and US$327.44 billion in 2013, accounting for 14.8% of the total exports.[144]

Chart 3.4 Eximbank operations, 2008-12



Source: The Export-Import Bank of China online information. Viewed at: http://english.eximbank.gov.cn/annual/2012fm.shtml.

[144] Export credit insurance reaches US$216.24 billion in 2011. China Economic Net. Viewed at: http://en.ce.cn/Insight/201204/18/t20120418_23252615.shtml; and information provided by the authorities.

3.117. Export credit insurance has also become more important in supporting China's foreign trade and economic cooperation. During the financial crisis, it served as leverage in stabilizing foreign demand and driving export deals. Since its creation in 2001 until the end of 2011, SINOSURE has supported exports, domestic trade and investment by guaranteeing a total value of US$1,484.6 billion. Its policies covered thousands of exporters and hundreds of medium- and long-term projects concerning exports of high technology products, large electro-machinery and complete-set equipment, as well as overseas engineering contracts.

3.3 Measures Affecting Production and Trade

3.3.1 Incentives

3.118. China's "subsidy policy" aims, according to the authorities, at, *inter alia*: upgrading the industrial base through the use of scientific and technological innovation; promoting regional development; and encouraging energy conservation and the reduction of emissions. The authorities indicated that support in China is granted through tax preferences and direct transfers, and that local preferences should be relatively limited and in line with those granted at the central level (Table A3.3). Most taxes are determined by the Central Government; hence, tax preferences at the central and local levels are basically similar. In principle, the local governments should not create any additional tax preferences. The authorities also noted that the support provided by local governments through direct transfers should be to a large extent similar to the support policies at the Central Government level.[145]

3.119. China's most recent notification to the Committee on Subsidies and Countervailing Measures dates from 2011. The notification contains 93 programmes maintained at the central level and covers the period 2005-2008.[146] The programmes listed in the notification included incentives provided to: Foreign-Invested Enterprises (FIE) (section 2); to Small and Medium Enterprises (SMEs); to less developed regions and "special economic zones" (section 2); to specific industries and to agriculture. The authorities also noted that they are preparing a more up-to-date notification of programmes maintained at the Central Government level, covering the period since 2008, and that they are also considering incorporating local subsidy programmes in that notification. According to the authorities, these programmes have not changed substantially since 2008; however, several of the programmes notified in 2011 have been eliminated (Table A3.4). The authorities were not able to provide statistical data regarding disbursement for the different support programmes, taxes forgone as result of the support measure; or the amount budgeted for these.

3.120. As notified by China, capital is guided through preferential tax treatment to specific Regions to promote development in remote areas (e.g. the Central and Western Regions) and to narrow economic gaps amongst the different regions. Regional development funds also exist to assist these areas. It appears that preferences granted in these Regions have not changed since the previous Review in 2012. The Enterprise Income Tax (EIT) on enterprises (domestic and foreign-invested) established in these Regions and engaged in industries encouraged in the Catalogue of Priority Industries for Foreign Investment in the Central-Western Regions are subject to a preferential EIT rate of 15% and exempted from import duties for the equipment imported to be used in the project (with the exception of those listed in the "Catalogue of imported products not subject to tax exemption in foreign-invested projects" or in the "Catalogue of imported products not subject to tax exemption in domestic invested projects").[147] However, a new Catalogue of Priority Industries for Foreign Investment in the Mid-Western Regions was released in 2013. This Catalogue (2013) lists by province the specific industries in which FDI should be encouraged.[148] The difference between the 2008 and the 2013 Catalogues is that the latter increased the number of industries to 500 from 327, and it included the Province of Hainan in the catalogue. The industries enumerated range from raising chickens, pigs, cattle and sheep to

[145] This paragraph is based on information provided by the authorities.
[146] WTO document G/SCM/N/186/CHN, 21 October 2011.
[147] Programme 15 in WTO document G/SCM/N/186/CHN, 21 October 2011. In accordance with the Circular on Several Issues Concerning the Implementation of Transformation and Reform of Value-Added Tax in China (MOF Circular Cai Shui No. 170 of 2008), from 1 January 2009, the VAT on the production equipment purchased by enterprises is deductible. The levy of the import VAT will be restored to the foreign-invested enterprises originally exempted from the import VAT for equipment imported for self-use.
[148] The Secretariat was unable to compare the old Catalogue and the new one (2013) as both of them are only available in Chinese.

the production of high-performance radial tyres including tubeless truck tyres, low profile and flat (less than 55 series), large high-performance radial passenger tyre rims (15 inches or more), radial aircraft tyres; and the production of auto parts such as: automatic transmissions of more than six speeds, LED headlamps, and auto parts made of lightweight materials (e.g. high-strength steel, aluminium-magnesium alloy, composite materials).[149]

3.121. Foreign-invested enterprises established in 12 border cities (counties and towns) benefited from a preferential EIT rate of 24% until 2008.[150] Additional incentives to attract foreign investment seem to be granted at the provincial level (Table A3.5). The central government authorities noted that they are not in a position to confirm the existence of these programmes.

3.122. Specific industries such as emerging industries, high and new technology industries, industries that promote energy conservation and environmental protection[151], industries related to public welfare and public infrastructure, which would not otherwise attract capital, are supported by the State. The objective of these support programmes is to promote innovation, upgrade industries, and protect the environment and green development.

3.123. Agriculture is also supported to guarantee farmers' income, protect the sector, develop rural areas, and ensure food security and price stability of agricultural products in the domestic market.[152] According to the authorities, China has gradually increased its fiscal expenditures on public services for agriculture and has improved the support system for agriculture. No data were provided regarding disbursements on the different agricultural programmes.

3.124. China has set up several funds to support agriculture. Some of these funds date back to 2001 and they are aimed at, *inter alia*, promoting innovation in the sector (2001)[153]; supporting the use of technology in the sector (2004)[154]; and financing interest payments on loans for irrigation projects aimed at saving water (2005).[155] To modernize the agricultural sector, the leading key State enterprises and their subsidiaries are exempted from the EIT when engaged in preliminary processing of agricultural, forestry, animal and fisheries products.[156] According to the authorities, support to the leading key State enterprise was abolished when the 2008 Enterprise Income Tax Law (EIT law) came into force. Under the current EIT law, no requirements are imposed on enterprises that process agricultural products for them to obtain preferential treatment.

3.125. The "four subsidies", i.e. the subsidy to promote the use of superior strains and seeds, the subsidy to purchase agricultural machinery and tools, the comprehensive subsidy for agricultural inputs, and the direct subsidy to farmers, remain in place.[157] In addition, imports of seeds (seedlings), breeding stock (fowl), fish fries (breeds), and species of wild animals and plants kept as breeds of certain types and in certain quantities, are exempt from VAT.[158]

3.126. In addition to the programmes notified by China, there appear to be other support programmes and other means to support different industries (e.g. fisheries) including through the provision of grants, policy lending by state-owned banks and the supply of goods at lower than "market price" by state-owned enterprises (SOEs) (Table A3.6). However, in the context of this Review, no information was provided to the Secretariat regarding these specific programmes or China's industrial policies that supported different areas of the economy. Moreover, the identification of these programmes has not been possible for the Secretariat, as specific support

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[149] Decree No. 1 of 2013, NDRC and the Ministry of Commerce. Viewed at: http://www.sdpc.gov.cn/zcfb/zcfbl/2013ling/t20130516_541505.htm.
[150] Programme 7 in WTO document G/SCM/N/186/CHN, 21 October 2011.
[151] Programme 20 in WTO document G/SCM/N/186/CHN, 21 October 2011.
[152] Information provided by the Chinese authorities.
[153] See Programme 59 in WTO document G/SCM/N/186/CHN, 21 October 2011.
[154] See Programme 58 in WTO document G/SCM/N/186/CHN, 21 October 2011.
[155] According to the authorities, this programme was eliminated in 2012 (Programme 66 in WTO document G/SCM/N/186/CHN, 21 October 2011). The authorities also noted that other programmes listed in document G/SCM/N/186/CHN, 21 October 2011 have been eliminated. For instance, Programmes 56 and 57 regarding the training of rural migrant workers (2005) and young farmers (2006), as well as Programme 65 to encourage processing of agricultural products (2004).
[156] See Programmes 53-54, 68 and 74 in WTO document G/SCM/N/186/CHN, 21 October 2011.
[157] See Programmes 60-64 and 69-70 in WTO document G/SCM/N/186/CHN, 21 October 2011.
[158] See Programmes 78 and 79 in WTO document G/SCM/N/186/CHN, 21 October 2011.

measures seem to be the result of internal administrative measures that are not published in English.[159] In addition, the Secretariat did not have access to an itemized central budget to be able to identify the outlays.[160]

3.127. General policies, as well as industries and activities earmarked as priorities for investment, and growth targets for the different sectors, continue to be set by the Central Government Five-Year Plans. For instance, the twelfth Five-Year Plan (2011-2015) calls for the transformation and upgrading of key existing industries to increase the competitiveness of China's industrial core, and for the development of strategic emerging sectors. The key manufacturing industries listed in the Plan are: equipment, shipbuilding, automobiles, iron and steel, non-ferrous metals, building materials, petrochemicals, light industry and textiles. The strategic emerging sectors mentioned in the Plan are: energy conservation and environmental protection industries; new-generation IT industry; biological industry; high-end equipment manufacturing industry; new energy industry, which focus on the development of new-generation nuclear energy and solar utilization, photovoltaic and photo-thermal power generation, and intelligent power grids and biomass energy; new material industry; and new-energy automobile industry. The value added contribution of these new strategic industries to GDP should reach some 8%.[161] In order to attain this goal, the Plan calls for "strengthening policy support and guidance". This is to be attained through, *inter alia*, setting up special funds for the development of new strategic industries and investment, increasing the number of public start-ups in rising industries, guiding "social" capital to be invested in innovative start-ups, making use of financial preferential policies, and encouraging financial institutions to strengthen credit support.[162] However, the Plan does not outline specific measures.

3.128. In addition to the Central Government Five-Year Plans, there are also five-year plans for the sectors, provincial five-year plans, and different catalogues that guide implementation of the overall policies (Table 3.11). However, the sectoral five-year plans and the provincial ones set policy guidelines and establish industrial policies but do not outline the specific measures to be applied. The Catalogues enumerate the industries that can avail themselves of preferential treatment and/or "guide" capital as they list the sectors in which investment is encouraged. However, it is not clear how the different catalogues should be read, as they may overlap and even conflict, reflecting the different agendas at the different levels. The different layers of regulation add an additional level of difficulty when trying to unravel specific support measures in China.

Table 3.11 Selected Catalogues

Catalogue	Remarks
Catalogue of Public Infrastructure Projects Eligible for Preferential Enterprise Income Tax Treatment (2008)	"Ministry of Finance, State Administration of Taxation announced the National Development and Reform Commission Catalogue of Public Infrastructure Projects Eligible for Preferential Corporate Income Tax Treatment (2008 edition), Notice" (Cai Shui [2008] No. 116). Viewed at: http://www.chinatax.gov.cn/n8136506/n8136593/n8137537/n8138502/8315882.html
Catalogue of Priority Industries for Foreign Investment in the Central-Western Regions (2013)	Decree No. 1 of 2013, NDRC and the Ministry of Commerce. Viewed at: http://www.sdpc.gov.cn/zcfb/zcfbl/2013ling/t20130516_541505.htm
Catalogue of Encouraged Technology and Product Imports (2011)	Jointly issued by the NDRC, Ministry of Finance, and Ministry of Commerce on 29 April 2011. Viewed at: http://www.mof.gov.cn/zhengwuxinxi/zhengcefabu/201105/t20110517_549896.htm
Catalogue of Comprehensive Use of Resources for Preferential Enterprise Income Tax Treatment	"Ministry of Finance, State Administration of Taxation, the State Development and Reform Commission on Comprehensive Utilization of Resources announced the Corporate Income Tax Catalogue (2008 edition) Notice" (Cai Shui [2008] No. 117) (2008). Viewed at: http://www.chinatax.gov.cn/n8136506/n8136593/n8137537/n8138502/8315839.html
Catalogue of Imported Products not subject to Tax Exemption in Foreign Investment Projects	On the Issuance of Chinese High-Tech Products Catalogue 2006 "Notice" (Ministry of Science [2006] No. 370). Viewed at: http://www.customs.gov.cn/publish/portal0/tab399/info125825.htm

[159] Haley U.C.V. and Haley G.T. (2013), *Subsidies to Chinese Industry*, Oxford University Press.
[160] Only a general "Report on China's Central, Local Budgets" seems to be available in English. Viewed at: http://english.gov.cn/official/budgetsreports.htm.
[161] Twelfth Five-Year Plan.
[162] Twelfth Five-Year Plan.

Catalogue	Remarks
Catalogue of Chinese High-Tech Products for Export (2006)	On the issuance of Chinese High-Tech Products Catalogue 2006 "Notice" No. 370 of 2006 by the Ministry of Science. Viewed at: http://www.most.gov.cn/tztg/200612/t20061220_38987.htm
Catalogue for the Guidance of Foreign Investment Industries	"Directory (2011 Amendment) Foreign Investment Industrial Guidance" National Development and Reform Commission, Order No. 12, 24 December 2011. Viewed at: www.sdpc.gov.cn/zcfb/zcfbl/201112/t20111229_453392.html
Catalogue for the Guidance of the Advantageous Industries in Central and Western Regions for Foreign Investment	National Development and Reform Commission, Order No. 1 of 9 May 2013. Viewed at: www.sdpc.gov.cn/zcfb/zcfbl/201305/t20130516_541505.html
Catalogue of Imported Products not subject to Tax Exemption under Foreign Investment Projects	Customs Notice No. 65 of 2008 (regarding adjustments to Catalogue of Non-Duty-Free Products under Foreign Investment Projects and other merchandise tariffs) of 5 September 2008. Viewed at: http://www.customs.gov.cn/publish/portal0/tab399/info125825.htm
Category of Non-Tax-Exempted Imported Items under Domestically Funded Projects	Ministry of Finance, Notice No. 83 of 2012. Viewed at: http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201212/t20121231_723618.html
Catalogue of National High-Tech Products Categories	Ministry of Science and Technology [2006] No. 370, 21 December 2006. Viewed at: http://www.most.gov.cn/tztg/200612/t20061220_38987.htm

Source: Information provided by the Chinese authorities and information compiled by the Secretariat.

3.129. In 2012, the People's Bank of China (PBC) made efforts to enhance coordination between credit policy and industrial policies by promoting the balanced development of the economy, speeding up the innovation of rural financial products and services and improving financial services for SMEs. In this context, the PBC has guided financial institutions to increase financial support to important areas of the economy and to extend credit to key industries such as thermal power and steel, shipping and railways. Financial institutions were encouraged to use flexible credit products so as to enhance support for export-oriented enterprises. In line with the principle of "differential treatment for different industries", financial institutions were guided to increase "green" credit. In 2012, credit, financial support, preferential loans and the improvement of financial services played an important role in the implementation of the national policy of regional economic development.[163]

3.130. The General Rules on Loans of 1996 stipulates that Banks determine the interest rate for a loan on the basis of the interest rate "ceiling" and "floor" fixed by the PBC.[164] In 2013, however, the PBC issued a notice liberalizing lending rates. As a result, financial institutions may set lending rates independently. Nonetheless, according to the General Rules on Loans: "in accordance with the State's policy, relevant departments may subsidize interests on loans, to promote growth of certain industries and economic development in some areas (Article 15)".[165] Banks are authorized to determine which loans they are to subsidize. The Rules also allow for different types of loans, amongst them the: "special-purpose loan" which is a loan made by a fully state-owned commercial bank with approval and authorization of the State Council and with necessary remedies having been provided in advance for any possible loan loss (Article 7).[166] Hence it could be argued that, in situations like this, loans provided by state-owned commercial banks to an industry could in practice be equivalent to a direct transfer of funds from the Government to that industry. In this regard, the authorities noted that the General Rules on Loans date from 1996 and no longer reflect the current situation of the financial sector in China, hence reference to these Rules could be misleading. The authorities also noted that the Rules are being revised. In 2004 a draft was issued for public comments and in that draft there was already no mention of the "special-purpose loan".

[163] People's Bank of China (2013), *Annual Report 2012*. Viewed at: http://www.pbc.gov.cn/publish/english/4133/2013/20130829090453489508948/20130829090453489508948.html.

[164] Article 13 of the General Rules on Loans – 1996. Viewed at: http://www.lehmanlaw.com/resource-centre/laws-and-regulations/banking/general-rules-on-loans-1996.html.

[165] The authorities noted that "departments" do not mean banks, hence this statement is not valid. The authorities also noted that the General Rules on Loans date from 1996 and no longer reflect the current situation in the financial sector in China, hence reference to these Rules could be misleading.

[166] General Rules on Loans – 1996. Viewed at: http://www.lehmanlaw.com/resource-centre/laws-and-regulations/banking/general-rules-on-loans-1996.html.

3.131. SOEs seem to be supported by the Government in different ways including through the provision of direct transfers to finance wages and operating costs, and cheap inputs and credit. China provides SOEs with preferential access to credit at the expense of more profitable projects; by lowering the cost of capital, SOEs with low productivity can continue to exist.[167]

3.132. The Chinese Government also provides industry-specific subsidies for inputs, land and technology to firms that the central and provincial governments perceive as strategically important or to revitalize them, as called for by the National Old Industrial Base Adjustment and Renovation Plan (2013-2022) of the NDRC. SOEs and favoured companies can purchase inputs such as components and raw materials below cost and directly from each other, affecting competitiveness. Technology subsidies provide support for R&D, brand development, and technology acquisition (Table 3.12). The different support programmes range from those designed to attain major policy goals to those serving to boost specific industries, but they are interconnected. For instance, the programme to promote the purchase of designated types of electrical home appliances by farmers, was put in place in order to boost domestic demand.[168] The products included in the programme would vary according to the support that different industries required. In 2012, the Government planned to include solar products in the home appliance subsidy scheme for rural buyers. The plan was expected to benefit the country's solar industry, which had been growing rapidly, driven largely by government programmes to promote alternative energy. Exports of solar cells grew in volume terms by 61% from 2012 to 2013.[169] However, due to industrial overcapacity and slumping foreign demand the authorities believed that the industry required a further boost, as indicated by experts from the Chinese Academy of International Trade and Economic Cooperation under MOFCOM, and that energy-saving products, solar products and alternative-energy cars were also likely to become part of the country's consumption stimulus policies in the 2011-2015 period.[170]

Table 3.12 Various support measures

Subsidy	Type of subsidy	Legislation
Subsidies to green energy and energy conservation		
Building-integrated Photovoltaics (BIPV) Programme	Upfront subsidy for BIPV systems and rooftop systems	The Renewable Energy Law
Golden Sun Programme	Solar power projects are subsidized up to 50% and 70% in remote areas	The Renewable Energy Law
National Feed-in Tariffs (FITs)	Guarantee an above the market rate paid by the grid companies to companies which generate energy from wind, biomass, and solar sources	The Renewable Energy Law
Full purchase on electricity generated by renewable energy	..	The Renewable Energy Law
Price surcharge of electricity generated by renewable energy	..	The Renewable Energy Law
Promotion of high-efficiency energy-saving products	..	Circular of the State Council on Printing and Distributing the 12th Five-Year Plan on Energy Saving and Emission Reduction (GuoFa [2012] No. 40)
Ride the Wind Programme (development of manufacturing of wind turbine components)	Programme eliminated[a]	The Renewable Energy Law
Special Fund for Wind Power Manufacturing	Programme eliminated[a]	The Renewable Energy Law
Financial funds/allowance to develop renewable energy relating to, *inter alia*, projects in rural areas	..	The Renewable Energy Law

[167] Haley U.C.V. and Haley G.T. (2013), *Subsidies to Chinese Industry*, Oxford University Press.
[168] The programme was in force from 2009 to 2013, to stimulate rural consumption and promote economic growth amid the global economic downturn. Under the programme, farmers received a reduction of 13% of the price of the home appliances that they bought.
[169] China Customs Statistics (various issues).
[170] China may extend home appliance subsidies to solar products (Xinhua, 19 January 2012). Viewed at: http://www.china.org.cn/business/2012-01/19/content_24447186.htm.

Subsidy	Type of subsidy	Legislation
Exemption or reduction of corporate income tax and VAT refund and exemption for renewable energy production	Preferential enterprise income tax. VAT on sales of electricity generated with wind power will be subject to an immediate 50% refund upon payment	Article 27 of the EIT Law and Article 87 of Implementation Regulation. Circular of the Ministry of Finance and State Administration of Taxation on the Value-added Tax Policies for Integrated Resource Utilization Products and Other Products (Caishui [2008] No. 156
Financial subsidies and tax incentives granted to energy performance contracting projects	Financial subsidies granted to projects that improve the energy conservation technologies	
Industry		
Famous Brand and China World Top Brands Programme	..	..
State Special Fund for Promoting Key Industries and Innovation Technologies	..	..
Subsidies for fuel-efficient vehicles	..	The Renewable Energy Law
R&D		
R&D fund for industrial technologies	Financial subsidy to R&D in key universal industrial technologies.	..
Fund for R&D of integrated circuit industry	Financial subsidy to R&D in key universal technologies in integrated circuit industry	..
Assistance to R&D, support for specific industries, assistance for industrial development		
Foreign Trade Development Fund	Programme eliminated[a]	
Promotion of new-energy and energy-saving automobiles	Subsidies to the end-use/customer who purchases new-energy and energy-saving automobiles	The Renewable Energy Law
Domestic appliance to farmers	..	..

.. Not available.

a Information provided by the Chinese authorities.

Source: WTO Secretariat and information provided by the Chinese authorities.

3.3.2 Competition policy and price controls

3.3.2.1 Overview

3.133. During the period under review, China began implementing the provisions regarding competition policy adopted in the course of the previous Review. These include provisions on the implementation of reviews of concentrations of undertakings (anti-trust reviews), and reviews of foreign companies' mergers and acquisitions of domestic companies relating to "national security" (national security reviews), with a view to increasing transparency (see below). During the period from January 2012 to September 2013, new provisions, the "*Procedural Provisions on Administrative Punishment in relation to Prices*", were adopted to increase the transparency of measures against price-related abuse of dominant positions, price-related administrative monopoly and price fixing.

3.3.2.2 Legislative and institutional framework

3.134. China's competition policy consists of laws, administrative regulations and ministerial rules. The laws concerning competition policy include the Anti-Monopoly Law (AML)[171], the Anti-Unfair Competition Law, and the Rules on Acquisition of Domestic Enterprises and the Price Law. The AML does not take precedence over other competition-related legislation. The main administrative regulations concerning competition are shown in Box 3.4. They touch mainly upon anti-trust reviews, abuse of dominant position, or of administrative monopoly, and price fixing. The above regulations are issued by the State Council.

[171] The text of the AML may be viewed at the MOFCOM website: http://english.mofcom.gov.cn/article/policyrelease/Businessregulations/201303/20130300045909.shtml.

Box 3.4 Main regulations dealing with competition policy issues

Guide of the Anti-Monopoly Committee of the State Council for the Definition of Relevant Market, issued on 24 May 2009

NDRC
Rules on Prohibiting Below-Cost Dumping (SDPC Order [1999] No. 2)
Rules on Prohibiting Price Frauds (SDPC Order [2001] No. 15)
Provisions on Prohibition of Price Monopoly (NDRC Order [2010] No. 7)
Provisions on the Administrative Procedures for Law Enforcement against Price Fixing (NDRC Order [2010] No. 8)
Procedural Provisions on Administrative Punishment in relation to Prices (NDRC Order [2013] No. 22)

MOFCOM
Measures on the Notification of Concentration of Undertakings (MOFCOM [2009] No. 1)
Measures on the Examination of Concentration of Undertakings (MOFCOM [2009] No. 12)
Measures for Calculating the Turnover for the Declaration of Business Concentration in the Financial Industry (MOFCOM, PBOC, CBRC, CSRC and CIRC [2009] No. 10)
Interim Rules on the Implementation of Divestiture of Assets or Businesses for Concentrations of Undertakings (MOFCOM Announcement [2010] No. 41)
Interim Rules on Assessment of the Impact of Concentration of Undertakings on Competition (MOFCOM Announcement [2011] No. 55)
Interim Provisions on Investigations of Unnotified Concentrations of Undertakings (MOFCOM Order [2011] No. 6)

SAIC
Certain Provisions on Prohibiting Unfair Competition in Prize-Attached Sales (SAIC Announcement No. 19 promulgated on 24 December 1993)
Certain Provisions on Prohibiting Anti-Competitive Practices of Public Enterprises (SAIC Announcement No. 20 promulgated on 24 December 1993)
Certain Provisions on Prohibition of Unfair Competition Activity concerning Imitation of Specific Names, Packaging and Decoration of Well-known Commodities (SAIC Announcement No. 33 promulgated on 6 July 1995)
Certain Provisions on Prohibiting Infringement of Commercial Secrets (SAIC Announcement No. 41 promulgated on 23 November 1995, amended by SAIC Announcement No. 86 promulgated on 3 December 1998)
Interim Provisions on Banning Commercial Bribery (SAIC Announcement No. 60 promulgated on 15 November 1996)
Interim Provisions on Prohibiting Bid-rigging (SAIC Announcement No. 82 promulgated on 6 January 1998)
SAIC Procedural Provisions on the Prohibition of the Abuse of Administrative Power to Exclude or Restrain Competition (SAIC Announcement No. 41 promulgated on 26 May 2009)
SAIC Provisions on Investigating and Handling Cases Concerning Monopoly Agreements and Abuse of Dominant Market Positions (SAIC Announcement No. 42 promulgated on 26 May 2009)
SAIC Provisions on the Prohibition of Monopoly Agreements (SAIC Announcement No. 53 promulgated on 31 December 2010)
SAIC Provisions on the Prohibition of Abuse of Dominant Market Positions (SAIC Announcement No. 54 promulgated on 31 December 2010)
SAIC Provisions on the Suppression of Abuse of Administrative Power to Eliminate and Restrict Competitive Conduct (SAIC Announcement No. 55 promulgated on 31 December 2010).

Source: Information provided by the Chinese authorities.

3.135. The AML's main objectives are to safeguard fair market competition, and improve economic efficiency, while protecting consumer and public interest. In particular, the AML focuses on preventing, analysing and combating three kinds of monopolistic conduct: the conclusion of monopoly agreements; the abuse of a dominant market position; and concentrations of undertakings that have or are likely to have the effect of eliminating or restricting competition. The AML applies to all sectors of the economy and to all types of enterprises with the exception of associated or concerted conduct by agricultural producers and rural economic organizations in their business activities (production, processing, sales, transportation, and storage of farm products) related to agricultural products. The AML covers monopolistic operations that have an effect on the Chinese market - that is, operations within China as well as activities outside the territory of China that have eliminative or restrictive effects on competition in China's domestic market.

3.136. Although the AML covers all types of enterprises, Article 7 of the Law allows the exercise of exclusive activities of state-owned enterprises (SOEs) that are considered vital to the Chinese economy and to safeguard national security or that have been granted legally-exclusive production and sales rights. In accordance with the AML, the State will supervise and regulate these firms' operations and the prices of the goods and services they supply.

3.137. The Anti-Monopoly Committee of the State Council is responsible for organizing, coordinating and guiding anti-monopoly work. The Committee, whose General Office is in MOFCOM, also coordinates the work of the three different state agencies responsible for competition policy implementation and enforcement (Table 3.13). MOFCOM's Anti-Monopoly Bureau is in charge of conducting anti-trust reviews. The other two agencies deal with specific issues related to the surveillance of monopoly agreements, abuse of market dominance, and abuse of administrative powers. The Price Supervision and Anti-Monopoly Bureau of NDRC has responsibility for price-related violations of the rules in these areas, while the Anti-Monopoly and Anti-Unfair Competition Enforcement Bureau of the SAIC deals with non-price issues. Each authority has issued a series of ministerial rules in their own area of responsibility.

3.138. The bodies mentioned above may issue administrative penalties, including fines, confiscation of illegal gains, and cease-and-desist orders. In addition to these administrative measures, parties injured by violations of anti-monopoly provisions may take their case to the courts.

3.139. China is continuing its international cooperation on competition policy issues with the competition authorities of other countries or groups of countries, *inter alia*, the European Union, Japan, the Republic of Korea and the United States. In January 2011, the NDRC signed a Memorandum of Understanding (MOU) on cooperation with the United Kingdom's Office for Fair Trade. In July 2011, the NDRC, MOFCOM and SAIC signed an MOU on Anti-Monopoly/ Anti-Trust Cooperation with the U.S. Department of Justice and the Federal Trade Commission. In May 2012, the NDRC signed an MOU on Anti-Monopoly/Anti-Trust Cooperation with the Republic of Korea's Fair Trade Committee. In September 2012, the NDRC and SAIC signed an MOU on Anti-Monopoly Cooperation with the European Commission's Department of Competition. China participates in competition policy-related activities in the context of APEC, the OECD, and UNCTAD. China is not a member of the International Competition Network and, as was reported in the previous Review, there is no a clear timeline for China to consider joining the network.

Table 3.13 Competition policy legislation and competent enforcement authorities in China

Competent authority	Laws, administrative regulations and ministerial rules	Responsibilities	Enforcement delegation
MOFCOM	AML 1. Rules of the State Council on Thresholds for Reporting Concentration of Undertakings. 2. Measures on the Examination of Concentration of Undertakings. 3. Measures on the Notification of Concentration of Undertakings. 4. Interim Rules on Assessment of Impact of Concentration of Undertakings on Competition 5. Interim Provision on Investigations of Un-notified Concentrations of Undertakings. 6. Measures for Calculating the Turnover for the Declaration of Business Concentration in the Financial Industry. 7. Interim Provisions on the Implementation of Divestiture of Assets or Businesses for Concentrations of Undertakings.	Anti-monopoly review of concentrations of undertakings.	No delegation.

Competent authority	Laws, administrative regulations and ministerial rules	Responsibilities	Enforcement delegation
NDRC	AML; Price Law 1. State Council Provisions on the Administrative Punishment of Price-related Violations. 2. Provisions on Prohibition of Price Monopoly. 3. Procedural Provisions on Administrative Punishment in relation to Prices. 4. Provisions on the Administrative Procedures for Law Enforcement against Price Fixing.	1. To investigate and punish price monopoly acts in accordance with the law, including price-related monopoly agreements, abuse of market dominance and abuse of administrative powers to eliminate and restrict competition. 2. To investigate and punish price-related violations in accordance with the law. 3. To investigate and punish arbitrarily charged administrative fees in accordance with the law.	Anti-monopoly enforcement may be delegated to the authorities at or below the provincial level. Price Law enforcement may be exercised at the local level.
SAIC	AML; Anti-Unfair Competition 1. SAIC Procedural Provisions on Prohibition of the Abuse of Administrative Power to Exclude or Restrain Competition. 2. SAIC Provisions on the Prohibition of Monopoly Agreement. 3. SAIC Provisions on the Prohibition of Abuse of Dominant Market Positions. 4. SAIC Provisions on the Suppression of Abuse of Administrative Power to Eliminate and Restrict Competitive Conduct. 5. SAIC Provisions on Investigating and Handling Cases Concerning Monopoly Agreements and Abuse of Dominant Market Positions.	1. Sanctions against non-price-related monopolistic agreements. 2. Regulation on non-price-related market dominant abuses. 3. Sanctions against administrative monopolies.	Anti-monopoly enforcement may be delegated to the authorities at the provincial level, but not further down. Cases must be registered at SAIC before delegation.

Note: MOFCOM: Ministry of Commerce.
NDRC: National Development and Reform Commission.
SAIC: State Administration of Industry and Commerce.
AML: The Anti-Monopoly Law.

Source: Information provided by the Chinese authorities.

3.3.2.3 Monopoly agreements and dominant market positions

3.140. The Anti-Monopoly Law and the subsequent set of implementing regulations, most of which entered into effect on 1 February 2011, including the NDRC Provisions on Prohibition of Price Monopoly (NDRC Decree 2010/7), SAIC Provisions on the Prohibition of Monopoly Agreements (SAIC Decree 2010/53), and SAIC Provisions on the Prohibition of Abuse of Dominant Market Positions (SAIC Decree 2010/54), provide definitions of dominant market positions and include a list of the types of agreement that are prohibited.

3.141. The AML defines horizontal and vertical monopoly agreements, and identifies six types of horizontal agreements (those among competitors, Article 13 of the AML) and three types of vertical agreements (those among counterparties, Article 14 of the AML) as prohibited practices. This prohibition applies not only to written or verbal monopoly agreements, but also to concerted behaviour among firms, without explicit written or verbal agreement.

3.142. The AML defines dominant market position as one that permits a firm to control output, set prices, and impose conditions in a relevant market, or allows it to limit the entry of other firms into that market. A firm that has been deemed to have a dominant market position is forbidden to engage in certain types of conduct that may lead to abuse of its dominant position. For instance, they are prohibited from selling products at unreasonably high prices or purchasing products at unreasonably low prices, and without valid reasons, selling products at a price below cost, or tying the purchase or sale of products or imposing unreasonable trading conditions. There is no list of enterprises considered to have a dominant market position. The NDRC and SAIC carry out investigations to identify whether an enterprise shall be considered to have a dominant market position on a case-by-case basis according to related laws and regulations. Dominant firms are obliged to grant competitors access to essential facilities they might hold on reasonable conditions. In accordance with the NDRC Provisions on Prohibition of Price Monopolies, dominant firms are also prohibited from restricting customers, without proper reasons, from trading with the dominant firm or firms linked by the dominant firms through the means of loyalty programmes such as discounts or rebates.[172]

3.143. Article 46 of the AML outlines the penalties that may be imposed for concluding and implementing a monopoly agreement. These include: a cease-and-desist order to discontinue the violation; the confiscation of any unlawful gains; and, in addition, the imposition of a fine of not less than 1% but not more than 10% of the sales achieved in the previous year. If such monopoly agreement has not yet been implemented, the fine may not exceed RMB 500,000. Voluntary collaboration with the investigating authority on issues related to the monopoly agreement reached, as well as providing material evidence, may lead to mitigation or exemption from the penalty, at the discretion of the investigating authority.

3.144. In accordance with the AML, Article 9 of the NDRC Provisions on Prohibition of Price Monopoly, and Articles 9 and 10 of the SAIC Provisions on the Prohibition of Monopoly Agreements, industrial associations are prohibited from organizing or facilitating monopoly agreements among their members. Violations are punishable by fines of up to RMB 500,000 or, where the circumstances are serious, by ordering the de-registration of the association by the registration authority.

3.145. Both the AML and the Price Law prohibit price fixing and quantitative restrictions, such as cartels. The surveillance of activities to fix or attempt to fix either prices or quantities of commodities is the responsibility of the Price Supervision and Anti-Monopoly Bureau of the NDRC. However, in accordance with the NDRC Provisions on Procedures for Administrative Enforcement of Prohibition of Price Monopoly (NDRC Decree 2010/8), the relevant provincial-level authorities, including the provincial Development and Reform Commissions (DRCs) may be delegated by the NDRC to act as the anti-price-monopoly enforcement agency within their administrative territories. The provincial DRCs may delegate the investigation to local price-supervision departments, hierarchically one level below.

3.146. The authorities have noted that since the implementation of the Anti-Monopoly Law in 2008, the NDRC and the competent anti-price-monopoly enforcement authorities of various provinces have been strengthening their efforts in anti-monopoly law enforcement and have dealt with various price fixing acts involving several sectors including pharmacy, liquid crystal displays and white liquor and such market players as state-owned enterprises, private enterprises and foreign-invested enterprises. In 2012 and 2013, the NDRC and the relevant provincial-level authorities dealt with horizontal price-monopoly cases involving Samsung, LG and other liquid crystal display manufacturers; vertical price-monopoly cases related to price controls involving: the Kuichou Moutai Group, and the Wu Liangye Group, two large SOEs in the white liquor industry; a price cartel organized by Shanghai Gold & Jewellery Trade Association; and a price cartel for baby formula milk powder among nine milk powder producers on which fines totalling approximately US$110 million were imposed, the largest fines since the implementation of the AML.

3.147. The enforcement of all non-price-related violations resulting from monopoly agreements and dominant market position is the responsibility of the Anti-Monopoly and Anti-Unfair Competition Enforcement Bureau of the SAIC. The practices that fall under investigation include the possible formation of monopoly agreements or abuse of dominant position leading to refusal to deal, or the imposition of unreasonable conditions. SAIC may delegate an investigation to the provincial Administration for Industry and Commerce (AIC) on a case-by-case basis, but provincial AICs may not delegate the case to a lower level, as is the case with price-related investigations and the DRCs. From 2011 to 2013, the SAIC investigated a total of 27 cases involving construction materials, telecommunications, insurance, used-car transactions, special equipment, and packaging materials, 12 of which were concluded by February 2014. The administrative penalties applied for the concluded cases are available on SAIC's website.

[172] In accordance with Article 14 of the NDRC Provisions on Prohibition of Price Monopolies, proper reasons for restricting customer access to trade with the dominant firm include: the safeguard of a product's quality and safety; to maintain brand image or improve services; to reduce costs significantly, and improve efficiency.

3.3.2.4 Administrative monopolies

3.148. Article 8 and Chapter 5 of the AML specifically prohibit "administrative monopolies", defined as the use of administrative powers to eliminate or restrict competition by administrative agencies and organizations of public affairs management authorized by laws and regulations.[173] Under Articles 32 to 37 of the AML, there are six types of prohibited administrative monopoly conduct: designated dealing; obstruction of free circulation of products across regions; restriction in tenders; investment or branch establishment restriction; forcing undertakings to pursue monopolistic conduct; and issuing rules with content eliminating or restricting competition. SAIC Decree 2011/55 further elaborates on the prohibitions defined in the AML.[174] The NDRC Provisions on Prohibition of Price Monopoly contain similar provisions with a focus on price-related violations.

3.149. According to Article 51 of the AML, if an administrative authority and an organization authorized by laws or regulations to perform public functions abuses its administrative powers by engaging in activities which eliminate and restrict competition, its superior authority shall order it to correct the illegal act. A disciplinary penalty is imposed on the supervising official directly responsible or other officials directly responsible for the conduct in accordance with the Law. The anti-monopoly enforcement authorities may offer suggestions to the relevant superior authority on how to handle the case in accordance with the Law.

3.150. Business operators are also prohibited from implementing monopolistic agreements and abusing their dominant position by means of administrative decisions, delegation, or regulation.[175] Administrative remedies to this end are prescribed in SAIC Decree 2011/53 (SAIC Provisions on the Prohibition of Monopoly Agreements) and SAIC Decree 2011/54 (SAIC Provisions on the Prohibition of Abuse of Dominant Market Positions).

3.151. Since the implementation of the AML, the competent authorities have initiated investigations into cases suspected to be abuses of administrative power to eliminate and restrict competition. However, no case has been registered in the courts against administrative monopoly.

3.3.2.5 Mergers and acquisitions

3.3.2.5.1 Anti-trust reviews of concentrations

3.152. According to Chapter 4 of the AML, all concentrations above certain thresholds must be notified to the Administrative Department of the State Council. They are then subject to a prior anti-trust review conducted by MOFCOM, and require its approval to proceed.[176] The AML defines concentration as one of the following cases: (a) merger; (b) acquisition of shares or assets giving control over other business operators; (c) control obtained by business operators over other operators by way of a contract; or (d) the ability to exert a decisive influence over other operators.

3.153. The thresholds defined by the 2008 State Council Regulations are: (a) worldwide turnover of the merged entity of more than RMB 10 billion in the year preceding the merger, and turnover in China of at least two of the merging operators exceeding RMB 400 million; (b) combined turnover in China of all the operators participating in the concentration exceeding RMB 2 billion in the immediately preceding accounting year, and turnover in China of at least two operators exceeding RMB 400 million in the preceding fiscal year. When calculating the turnover, consideration must be given to specific industries, such as banking, insurance, securities, futures. Multiple-concentration activities between the same entities within a two-year period are considered as a single transaction whose value is the sum of the turnover from the transactions. However, even if each individual action is below the threshold, if the total transaction turnover is above the notification threshold, the concentration activities must be notified and are subject to anti-trust reviews.[177]

[173] SAIC Decree 2011/55, SAIC Provisions on the Suppression of Abuse of Administrative Power to Eliminate and Restrict Competitive Conduct, which entered into force on 1 February 2011.

[174] SAIC Decree 2011/55, Articles 3 and 4.

[175] SAIC Decree 2011/55, Article 5.

[176] Apart from MOFCOM, other agencies involved in merger reviews include SAIC, and sectoral regulators.

[177] MOFCOM Decree 2009/11, Measures on the Notification of Concentrations of Undertakings Article 7.

3.154. Apart from the analysis of concentrations of undertakings above the notification thresholds which need to be notified by undertakings, MOFCOM can also conduct, within its competence, an investigation of concentrations between undertakings which do not reach the notification thresholds, if facts and evidence are found to indicate that the concentrations are likely to have the effect of eliminating or restricting competition.[178]

3.155. During the period under review and in order to facilitate the procedures of anti-trust reviews, MOFCOM issued the Interim Rules on Criteria for Facilitating Review of Concentrations of Undertakings (draft) in April 2013, with a view to improving the efficiency of anti-monopoly reviews.[179] Other administrative rules dealing with anti-trust reviews include: the Measures on the Examination of Concentrations of Undertakings (MOFCOM Decree 2009/12), the Measures on the Notification of Concentrations of Undertakings (MOFCOM Decree 2009/11) (both in effect since 1 January 2010), the Interim Rules on the Implementation of Divestiture of Assets or Businesses for Concentrations of Undertakings (MOFCOM Announcement 2010/41, entered into force on 5 July 2010), and the Interim Provisions on Assessment of the Impact of Concentrations of Undertakings on Competition (MOFCOM Announcement 2011/55) (in effect since 5 September 2011).

3.156. Within 30 days from the date MOFCOM receives the complete documents or materials submitted by the undertakings[180], it must make a preliminary review of the concentration notified and make a decision on whether to conduct a further review. MOFCOM must notify the parties involved in the concentration of its decision in writing. The act of concentration may not be implemented before MOFCOM makes such a decision. If MOFCOM decides not to conduct a further review or fails to make a decision at the expiration of the specified time-limit, the concentration may be implemented. If MOFCOM decides to conduct a further review, it must be completed within 90 days. In cases where a decision on prohibiting the concentration is made, the reasons for such decision must be given. Under some circumstances, MOFCOM may extend the period for the review. However, the extension period must not exceed a maximum of 60 days.[181]

3.157. When conducting an anti-trust review, MOFCOM considers the effect of the merger on market competition, not only in terms of controlling the market and influencing prices, but also in terms of the effect on other associated markets along the value chain leading to the production of the relevant goods or services. Indices such as the Herfindahl-Hirschman Index (HHI) and Concentration Ratios (CRs) are used in assessing the impact of concentrations on competition. The same criteria are applied to all businesses, including SOEs. In anti-trust reviews of transnational mergers and acquisitions, MOFCOM is entitled to exchange information with competition authorities of other jurisdictions if it considers that such exchange is necessary for its investigations.

3.158. As the result of a review, MOFCOM may approve, reject, or approve the concentration with conditions. The conditions may include: divestment of certain assets or business; the opening of infrastructure to the public; the licensing of key technologies; or terminating exclusive agreements.[182] Under the Interim Provisions on Investigation of Unnotified Concentrations of Undertakings, in effect since 1 February 2012, MOFCOM may initiate investigations on whether unnotified concentration activities should have been notified and made subject to an anti-trust review. Parties to the concentration found at fault may face a fine of up to RMB 500,000 if the investigation finds that the unnotified concentration activity would have required clearance through anti-trust review. MOFCOM may also order that the concentration be reversed.

3.159. From 1 January 2012 to 1 May 2013, MOFCOM unconditionally approved 215 anti-monopoly review decisions and conditionally approved 8 anti-monopoly review decisions.

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[178] Article 4 of the State Council Regulation on the Notification Thresholds for Concentrations of Undertakings.

[179] The Interim Rules on Criteria for Facilitating Review on Concentrations of Undertakings (draft) can be viewed on MOFCOM's website at: http://fldj.mofcom.gov.cn/article/zcfb/201304/20130400076870.shtml (in Chinese), 16 September 2013.

[180] Reference to the materials and documents required to be submitted is made in Article 23 of the AML.

[181] Article 26 of the AML. Viewed at: http://english.mofcom.gov.cn/article/policyrelease/Businessregulations/201303/20130300045909.shtml.

[182] MOFCOM Decree 2009/12, Measures on the Examination of Concentrations of Undertakings, Article 11.

3.3.2.5.2 National security review of concentrations

3.160. In accordance with Article 31 of the AML, in addition to anti-trust reviews, acquisitions by foreign investors of domestic enterprises considered to be related to national security must undergo a national security review. In these cases, national security review clearance is required as a prerequisite for any other administrative procedures, including anti-trust reviews. If a proposed merger case is not granted national security clearance, MOFCOM must, jointly with other relevant authorities, terminate the merger transaction or take action to eliminate the negative impact on national security caused by the merger.

3.161. The scope of the regulated activities is contained in the Provisions on Mergers and Acquisitions of Domestic Enterprises by Foreign Investors, as last revised in MOFCOM Decree 2009/6. In accordance with China's normative rules, mergers and acquisitions of domestic enterprises by foreign investors are defined as: (a) when a foreign investor's equity investment exceeds 25% of a domestic company's registered capital; (b) when foreign investors set up FIEs in order to acquire and operate assets of domestic enterprises; or (c) the acquisition by foreign investors of assets of domestic enterprises and setting up of FIEs based on the acquired assets.

3.162. National security reviews are conducted by the Inter-Ministerial Joint Conference on National Security Review of Acquisitions of Domestic Enterprises by Foreign Investors, led by NDRC and MOFCOM. The procedures to conduct national security reviews are contained in the MOFCOM Rules on Implementing the National Security Review Mechanism for Mergers and Acquisitions of Domestic Enterprises by Foreign Investors (MOFCOM Announcement 2011/53), which entered into force on 1 September 2011.

3.163. In accordance with the Circular on the Establishment of a National Security Review of Acquisitions of Domestic Enterprises by Foreign Investors (Guo Ban Fa 2011/6), which entered into force on 5 March 2011, the instances where mergers and acquisitions of domestic enterprises by foreign investors must be subject to national security review are: defence-related activities, which include the acquisition of defence or defence-affiliated enterprises, as well as the purchase of enterprises located near defence facilities; and the acquisition of, and gaining control over, enterprises related to national security engaged in the production of key agricultural products, energy and natural resources, as well as key infrastructure, transportation, and machinery manufacturing. If a merger falls within the scope of activities mentioned in the Circular, foreign investors must request that MOFCOM conduct a national security review; the request may also come from other ministries or government agencies, industrial associations, or enterprises in the same industry or along the value chain.

3.164. National security reviews are subject to specified timelines. The first stage of the review, known also as general review, must be completed within 30 working days. If MOFCOM is satisfied that the national security conditions are met at this stage, the concentration operation may proceed without the need to engage in further review. However, if the application is not successful, a second stage of review, known as special review, will be conducted; this special review must be completed within 60 working days.

3.3.2.6 Price controls

3.165. China applies price controls to commodities and services deemed to have a direct impact on the national economy and people's livelihoods. Article 18 of the Price Law of 1998 provides that, when necessary, government-guided prices or government-set prices can be applied to commodities that have significant bearing on national economic development and people's livelihood, that are rare or are a natural monopoly, or are considered key public utilities or public services.[183] Price controls are set by the government price-management bodies, namely the NDRC at the central level, and the Bureau of Commodity Pricing in each province.

3.166. Price controls are implemented in accordance with NDRC Announcement No. 11 of 2001. In their implementation, price controls may take the form of "government prices" or "government-guided prices". Government prices (or government-determined prices) are fixed prices set by the

[183] In accordance with the Price Law, the determination of prices shall be in line with the law of value, prices of most commodities and services shall be market-determined and only the prices of an "extremely small" number of commodities and services shall be government-guided or government-set prices.

authorities, while in the case of government guided-prices, a certain range within which prices can fluctuate, is determined. There is a Central Government Pricing Catalogue, as well as Local Government Pricing Catalogues compiled at the level of provinces, autonomous regions and municipalities, which must be approved by the State Council.

3.167. The determination of government prices or government-guided prices varies in accordance with the type of product or service. A number of criteria are used in their formulation, such as the market situation, average social costs, the effect of the prices of the product or service on the standard of living of the population, as well as economic, regional and seasonal factors, development and social needs. Although the methodology for setting prices is the same across provinces, prices may be set at different levels depending on the particular province's situation; the above-mentioned factors are taken into account to this end. In accordance with the Price Law, government-guided prices and government prices must be released to the consumers and operators.

3.168. Government prices are applied to items subject to state monopoly, such as tobacco and salt, and to public-interest items, such as educational material.[184] Government-guided prices are applied to refined oil, fertilizers, and natural gas. Products classified as the State's key reserve materials (grain, cotton, sugar, silkworm cocoons, crude oil, processed oil, and chemical fertilizers), are included in the Government Pricing Catalogue released in 2001 and, according to the Catalogue, could be subject to government prices (Table 3.14). The authorities have noted that this is not the case in practice, since China does not directly set the prices of reserve materials. Since reserve-materials procurement is generally conducted through auctions, prices are the result of competitive bidding.

Table 3.14 NDRC Government or government-guided prices, 2013

Product	Type of control / rationale
Tobacco, salt and explosive materials	Government price. State monopoly. Establishment of purchasing price of tobacco leaves, wholesale price of salt. Guided price of explosive materials.
Fertilizers	Guided price: benchmark factory prices and fluctuations, port settlement prices.
Educational material	Government price The rationale is public interest.
Refined oil	The retail price is government-guided. Managed prices are determined on the basis of the price of crude oil on the international market plus the average processing fee, taxes and reasonable transportation fees in China. The rationale is the lack of adequate market competition.
Natural gas	The factory price of onshore gas is Central Government-guided while the pipeline transportation price is Central Government-set. The sales price of gas is controlled by the local government and is generally set by the latter. The rationale for maintaining price controls is that natural gas is considered a crucial public utility and the need to complete a full reform of the electricity system before liberalizing prices.
Military products	Factory government price. The rationale is defence and national security.
Electricity	The price of electricity is mainly set by the Government and monitored by the competent price authority. The price of electricity generated by power grids across provinces, autonomous regions and municipalities directly under the competent authority of the State Council at Central Government level and provincial-level power grids is approved by the competent price authority of the State Council, and the price of electricity generated by independent power grids below the provincial level is monitored by the governments of the provinces, autonomous regions and municipalities. The rationale for maintaining price controls is the nature of electricity prices as a crucial public utility price, as well as the lack of a fully completed reform of the electricity system.
Environment protection charges	Pollutant discharge levies mainly include sewage, waste gas, solid wastes and noise-discharge fees and are subject to Central Government-set prices. The rationale for maintaining price controls is that pollutant discharge levies are administrative charges and hence, must be controlled, as mandated by Article 47 of the Price Law, and stipulated in Article 36 of the Regulations on Price Control. The specific rationale for each charge is formulated by the State Council separately.
Urban household garbage disposal charges	Prices are set by local governments. The rationale for maintaining price control is that garbage disposal is a main public utility.
Water	Urban water prices are subject to price control by local governments. The rationale for maintaining this price control is that water supply is a natural monopoly.
Sewage disposal charges	Set by local governments. The rationale for maintaining price control is that sewage disposal is a main public utility.

[184] NDRC online information. Viewed at: http://www.sdpc.gov.cn/zfdj/djfw/t20050707_130525.htm (in Chinese), 20 August 2013.

Product	Type of control / rationale
Financial settlement and trading service fees	Fees for basic settlements such as bank drafts, cash remittances, acceptance of bills of exchange, promissory notes and cheques, and foreign exchange are set by the Central Government. Bank card-swiping service fees are Central Government-guided. The rationale for maintaining price controls is lack of full competition.
Charges of some construction projects	Land-expropriation administrative charges and house-ownership registration charges are set by the Central Government. The rationale is that they are administrative affairs charges.
Operational service charges	Subject to government prices or government-guided prices. The rationale is public interest or lack of full competition.
Real estate prices and charges of related services	Benchmark land prices, economic housing prices, low-price house rental and property service charges are subject to local government-guided prices. The rationale is public interest.
Entrance to sightseeing sites	Local government-guided prices. The rationale is public interests.
Railway transportation fares	Railway-passenger and cargo-transportation fares and miscellaneous charges are mainly government-set or government-guided prices. The rationale is that railway transport closely relates to national economic and social development and people's livelihoods and is to some extent a monopoly.
Harbour charges	Mainly subject to government-set prices and government-guided prices. Charges of major harbours along coastal lines and the Yangtze River and all harbours opened up to the world are administered by the Central Government; charges of other domestic trade harbours are administered by local governments. The rationale is that harbours are important public infrastructure that closely relate to national economic and social development and are to some extent a regional monopoly business.
Air transport prices and airport charges	Civil domestic flight prices are mainly government-guided prices; both the benchmark rates and their fluctuation range are determined by the Central Government. The rationale is that the civil domestic flight market is still developing and civil aviation does not fully compete with other means of transport.
Civil airport charges	Mainly government-guided, the benchmark rates and fluctuation range of which are determined by the Central Government. The rationale is that airports closely relate to national economic and social development and people's livelihood and are to some extent natural monopolies.
Basic postal service fees	Government-set. The rationale relates to people's livelihoods.
Basic telecommunication service charges	Mainly government-set and government-guided. The rationale is inadequate competition and close relation to the national economic and social development and people's livelihood.
Medicines and medical services	Government-set prices or government-guided prices are applied for medicines listed in the catalogue of medicines covered by the basic medical insurance and for medicines outside the said catalogue but in monopoly operation. Government-guided prices apply to basic medical services provided by non-profit medical institutions. The rationale is economic importance and effect on people's livelihoods, public interest and, to some extent, lack of market competition.

Source: Information provided by the Chinese authorities and NDRC online information.

3.169. The NDRC is in charge of implementing price controls at the central level for tobacco, edible salt, natural gas, electric power, rail and civil aviation transport, and post and telecom services. Price controls on health-related services and passenger transport by road are implemented by provincial governments. Additionally, minimum procurement prices for rice and wheat remain in place for main grain-producing areas (seven provinces for rice, and six provinces for wheat).

3.170. Although the list of goods and services subject to government prices and government-guided prices has not changed since the previous Review, there have been numerous adjustments to rates and fees. In 2013 (up to 10 December), the NDRC issued a total of 22 announcements concerning the pricing of commodities and services, 13 of which related to increases or decreases in the price of fuels (Table 3.15).

Table 3.15 Price announcements by NDRC, 2013

Areas	Announcement	Basic changes
Electrical power	Nos. 973 and 1942 of 2013	Adjusting the price categories of electrical power
		Regulating the price of nuclear electrical power
Domestic fuels	13 announcements, the latest being issued on 28.11.2013	Adjusting the domestic price of processed oil and other fuels
Natural gas	No. 1246 of 2013	Adjusting the price ceiling of natural gas
Some key medicines	No. 4134 of 2013	Adjusting the price ceiling of some medicines

Areas	Announcement	Basic changes
Water resources	No. 29 of 2013	Formulating the minimum purchase price of water resources in different regions
Key reserve materials of the State	No. 193 of 2013	Regulating the minimum procurement prices for rice
	No. 947 of 2013 No. 205 of 2013	Regulating the initial minimum procurement prices for wheat

Source: NDRC online information. Viewed at: http://www.sdpc.gov.cn/zfdj/jggg/default.htm (in Chinese), 10 December 2013.

3.171. The Price Law defines a number of unfair price acts: (1) manipulation of market prices in collusion; (2) dumping (including predatory dumping); (3) speculation over price increases; (4) using falsified or misleading prices; (5) practising price discrimination; (6) procuring, selling commodities or providing services at prices increased or lowered in disguised form by adopting such means as raising or lowering the grade or quality of a good; (7) seeking exorbitant profits; and (8) other unfair price acts prohibited by laws and administrative regulations.

3.3.3 State trading, state-owned enterprises, and privatization

3.172. Under the Foreign Trade Law (2004), the State may subject certain goods to state trading. The reasons for maintaining state trading for certain products in China seem to have remained unchanged since the last Review; these include: ensuring stable supply and prices of the products concerned; safeguarding China's food security; and protecting exhaustible and non-recyclable natural resources and the environment. Imports subject to state trading continue to comprise: grain (including wheat, maize, and rice), sugar, cotton, chemical fertilizers, tobacco, crude oil, and processed oil (Table 3.16).[185]

3.173. It appears that the functioning of the state-trading system has not changed substantially since the last Review in 2012. In principle, goods subject to state trading can be imported (and exported) only by authorized enterprises.[186] However, products subject to tariff-rate quotas (grain, cotton, sugar, and certain chemical fertilizers) may also be imported by non-state-trading enterprises, as may imports of crude oil. Tobacco is the only state-traded product which can be traded solely by authorized enterprises. The non-state-trading portion of these goods is allocated either by the NDRC, in the case of grains and cotton, or by MOFCOM for the other products. The NDRC and MOFCOM issue on a yearly basis the criteria for an enterprise to acquire trading rights for these products, the volumes they can import and the allocation method. The quantities imported under state trading are not available.[187]

Table 3.16 Imports under state trading, 2011-13

Product	HS code	Percentage of TRQ allocated to state-trading enterprises in		
		2011	2012	2013
Wheat	10011000; 10019010; 10019090; 11010000; 11031100; 11032100	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

185 Imports subject to state trading do not seem to have changed since 2003 when China provided its last notification regarding state trading (WTO document G/STR/N/9/CHN/Add.1, 14 July 2003).
186 Article 11 of the Foreign Trade Law.
187 Information provided by the authorities of China.

Product	HS code	Percentage of TRQ allocated to state-trading enterprises in		
		2011	2012	2013
Cotton	52010000; 52030000	33	33	33
Sugar	17011100; 17011200 17019100; 17019910 17019920; 17019990	70	70	70
Urea	31021000	90	90	90
NPK	31052000	51	51	51
Diammonium phosphate	31053000	51	51	51
Other chemical fertilizer	31022100; 31022900 31023000; 31024000 31025000; 31026000 31027000; 31028000 31029000; 31031000 31032000; 31039000 31041000; 31042000 31043000; 31049000 31051000	n.a.	n.a.	n.a.
Tobacco	24011010; 24011090 24012010; 24012090 24013000; 24021000 24022000; 24029000 24029000; 24031000 24039100; 24039900 48131000; 48132000 48139000; 55020010 56012210; 84781000 84789000	n.a.	n.a.	n.a.
Crude oil	27090000	n.a.	n.a.	n.a.
Processed oil	27100011; 27100013 27100023; 27100024 27100031; 27100033 27100039	n.a.	n.a.	n.a.

n.a Not applicable. These products, although subject to import under state trading, are not subject to tariff-rate quotas.

Source: National Development and Reform Commission (NDRC) Announcement No. 35 of 2012 [Grains and cotton]. Viewed at: http://www.ndrc.gov.cn/zcfb/zcfbgg/2012gg/t20121008_508641.htm (in Chinese only); MOFCOM Announcement No. 59 of 2012 on Detailed Rules for Applying and Distributing Import Tariff Quota of Sugar for 2013. Viewed at: http://english.mofcom.gov.cn/aarticle/policyrelease/buwei/201209/20120908366253.html; MOFCOM Announcement No. 61, 2012 on Total Import Amount, Distribution Rules and Relevant Procedures for Tariff Quotas of Chemical Fertilizer for 2013. Viewed at: http://english.mofcom.gov.cn/article/policyrelease/buwei/201210/20121008384037.shtml; and MOFCOM online information [Fertilizer]. Viewed at: http://www.mofcom.gov.cn/aarticle/b/e/201210/2012100837 6628.html (in Chinese only).

3.174. The export products subject to state trading and the enterprises in charge of trading these products have not changed substantially since the last Review. In 2013, exports subject to state trading were rice, maize, cotton, coal, crude oil, tungsten ore and products, antimony ore and products, silver and tobacco (Table 3.17). The volume of export subject to state trading is determined taking into account international and domestic supply and demand. The state-trading enterprises themselves determine the price of the goods that they export.[188] According to the authorities, exports are allocated amongst state-trading enterprises based on market principles.

[188] WTO document G/STR/N/9/CHN/Add.1, 14 July 2003.

Table 3.17 Export products subject to state-trading arrangements, 2011-13

Product (HS code)	Enterprises
Rice 10061011; 10061019; 10061091; 10061099; 10062010; 10062090; 10063010; 10063090; 10064010; 10064090	China National Cereals, Oil and Foodstuffs Import & Export Co. (renamed as COFCO in April 2007); and Jilin Grain Group Import & Export Co. Ltd.
Maize 10051000; 10059000; 11042300	China National Cereals, Oil and Foodstuffs Import & Export Co. (renamed as COFCO in April 2007); and Jilin Grain Group Import & Export Co. Ltd.
Cotton 52010000; 52030000	Chinatex Cotton Import & Export Corporation; Xinjiang Uygur Autonomous Region Cotton and Jute Import & Export Co.; Xinjiang NongKen (Group) Import & Export Co. Ltd.; China National Cotton Reserve Corporation.
Coal 27011100; 27011210; 27011290; 27011900; 27021000	China National Coal Group Corporation; Shanxi Coal Import & Export Group Co. Ltd.; Shenhua Group Corporation Ltd.; China Minmetals Corporation.
Crude oil 27090000	SINOCHEM Corporation; China International United Petroleum & Chemicals Co.; China National United Oil Co.
Processed oil 27101110 (start from 2012, change to 27101210); 27101120 (start from 2012, change to 27101220); 27101191 (start from 2012, change to 27101291); 27101199 (start from 2012, change to 27101299); 27101911; 27101912; 27101919; 27101921; 27101922; 27101929; 27101991; 27101992; 27101999; 27111100; 27102000 (start from 2012)	SINOCHEM Corporation; China International United Petroleum & Chemicals Co.; China National United Oil Co.; China National Offshore Oil Corporation; China National Aviation Fuel Group Corporation.
Tungsten ore and products 26110000; 26209910; 26209090; 28418010; 28418040; 28259012; 28259019; 28259011; 28418020; 28418030; 28499020; 81011000; 81019400; 81019700	STEs are listed in MOFCOM Circular Shang Mao Han No. 1135 of 2012.
Antimony ore and products 26171010; 26171090; 28258000; 81101010; 81101020; 81102000; 81109000	STEs are listed in MOFCOM Circular Shang Mao Han No. 1135 of 2012.
Silver 71061011; 71061019; 71061021; 70161029; 71069110; 71069190; 71069210; 71069290	STEs are listed in MOFCOM Circular Shang Mao Han No. 1135 of 2012.
Tobacco and by-products 55020010; 24011010; 24011090; 24012010; 24012090; 24013000; 24021000; 24022000; 24029000; 24031000; 24039100; 24039900; 48131000; 48132000; 48139000; 56012210; 84781000; 84789000	STEs are listed in MOFTEC Announcement No. 44 of 2001[a].
Tea 09021010; 09021090; 09022010; 09022090	State trading temporarily abolished since 2005.
Soybeans 12011000; 12019010; 12019020; 12019030; 12019090	China has not applied state trading since it joined the WTO.
Silk 5001; 5002; 5003; 5004; 5005	State trading temporarily abolished since 2005.
Unbleached silk 50071010; 50072011; 50072021; 50072031	China has not applied state trading since it joined the WTO.

Product (HS code)	Enterprises
Cotton yarn 520411; 5205 (excluding 520528; 520547; 520548); 520710; 520419; 5206; 520790	China has not applied state trading since it joined the WTO.
Woven fabrics of cotton 520811; 520812; 520813; 520819; 520911; 520912; 520919; 521011; 521019; 521111; 521112; 521119	China has not applied state trading since it joined the WTO.

a MOFCOM online information. Viewed at: http://www.mofcom.gov.cn/aarticle/b/c/200404/20040400210082.html.

Source: Information provided by the Chinese authorities and WTO document WT/ACC/CHN/49, 1 October 2001.

3.3.4 Government procurement

3.175. There have been no major changes to China's legislative and regulatory regime for government procurement since the last Review. China continues to be engaged in the process of acceding to the WTO Agreement on Government Procurement (GPA). This may imply eventual changes to the legislative regime, currently in a preparatory stage, to align it with the provisions of the GPA.

3.176. In the context of the present Review, the Chinese authorities have highlighted that since 2011, transparency in China's government procurement process has improved. In this connection, they point out the increasing resort to public-tendering methods: the percentage of government procurement through public tendering now exceeds 80% and the use of single-source procurement has been reduced (see below). Also, efforts to make government-procurement-related information publicly available have been stepped up, as more documents linked to the procurement process, as well as the results of investigations and penalties imposed for misusing the procurement process, have been published.

3.177. The Government Procurement Law (Order of the President of the People's Republic of China No. 68 of 29 June 2002, in effect since 1 January 2003), states that government procurement must be conducted in such a manner as to facilitate achievement of the goals designed by State policies for economic and social development including, but not limited to, environmental protection, assistance to under-developed or ethnic-minority areas, and promotion of small and medium-sized enterprises. The Government Procurement Law aims at improving efficiency in the use of public funds and promoting better governance.

3.178. According to information provided by the Chinese authorities, the total value of government procurement increased to RMB 1,133.2 billion in 2011, up from RMB 842.2 billion in 2010 (Table 3.18). Government procurement accounted for about 2.2% of GDP (2.1% in 2010). The data cover only procurement by government departments, institutions, and public organizations using fiscal funds, for goods, construction, and services listed in the "*Centralized Procurement Catalogue*" or above the threshold using other financial resources. It does not cover procurement by SOEs, which the Chinese authorities do not consider falls under the definition of government procurement (see below). Local governments account for a major part of government procurement in China; they accounted for 87.6% of the total value of government procurement in 2011.

3.179. The main laws, rules and regulations on government procurement in China are the Government Procurement Law of 2002, the Tendering and Bidding Law of 1999, and the Implementing Regulations on the Tendering and Bidding Law, promulgated in December 2011 and implemented from 1 February 2012 and the Measures for the Administration of Tenders and Invitations to Bid in Government Procurement of Goods and Services (MOF Order No. 18 of 11 August 2004). Other laws which could have an effect on government procurement include the Budget Law, the Contract Law, the Product Quality Law, the Price Law, and the Anti-Unfair Competition Law. In addition to the Government Procurement Law, procurement of construction and engineering projects is also regulated by the Law on Bid Invitation and Bidding or Tendering, as stipulated by Article 4 of the Government Procurement Law.[189]

Table 3.18 Government procurement by procurement of goods, construction projects, and services, 2009-12

(RMB billion)

	2009	2010	2011	2012
TOTAL	**741.32**	**842.2**	**1,133.3**	**1,397.8**
Goods	301.06	317.63	383.0	439.0
Central government entities	30.23	30.82	35.8	40.1
Local government entities	270.83	286.81	347.2	398.9
Construction and engineering services	385.84	453.66	661.4	837.4
Central government entities	23.41	17.59	23.0	25.5
Local government entities	362.43	436.07	638.4	811.9
Other services	54.42	70.91	88.9	121.4
Central government entities	8.42	8.28	9.7	13.0
Local government entities	46.00	62.63	79.2	108.4

Source: Information provided by the Chinese authorities.

3.180. Government procurement can be centralized or decentralized. The Government Procurement Law covers the purchasing activities conducted with fiscal funds by government departments, institutions and public organizations at all levels, where the goods, construction and services concerned are included in the Centralized Procurement Catalogue issued by the Ministry of Finance, and their value exceeds the respective prescribed procurement thresholds. Purchases of items listed in the Centralized Procurement Catalogue, which is revised from time to time, must be carried out by centralized procurement agencies. The threshold for procurement under the central budget in 2013 was RMB 500,000 for goods and services, and RMB 600,000 for construction projects. The thresholds for items that come under local budgets are prescribed and published by the respective governments of provinces, autonomous regions or municipalities directly under the Central Government or the department authorized by them. Centralized procurement accounted for 87.6% of government procurement in 2012 (RMB 1.2 trillion).

3.181. Decentralized procurement of items not listed in the Centralized Procurement Catalogue, but with a value above a certain procurement threshold, which is specified by governments at various levels, is carried out by the procuring agency itself.

3.182. Under Article 10 of the Government Procurement Law, the Government is required to procure domestic goods, construction projects and services, subject to certain exceptions. These exceptions are: when the goods, projects, or services required are unavailable in China or, if available, cannot be procured on reasonable commercial terms; when the goods, projects, and services are procured for use abroad; or when it is otherwise provided for by other laws and administrative regulations. The Law itself does not contain a definition of domestic goods or provisions on local content, or rules of origin, to determine whether a product is produced domestically. Article 8 of MOF Order No. 18 of 11 August 2004 states that the suppliers participating in the bids for supply of goods or services under government procurement must be domestic suppliers who supply domestic goods or services. However, foreign suppliers may participate in tenders and invitations to bid concerning goods and services if other laws and administrative regulations so prescribe. Domestic-sourcing requirements will have to be modified for procurement above GPA thresholds for China to join the Agreement. Although official statistics do not contain data on procurement by foreign suppliers or of foreign products, this appears to occur. In this respect, the authorities noted that despite the "*buy-domestic*" provision included in the Government Procurement Law, the Chinese Government has been implementing a policy to facilitate the procurement of foreign products since 2007.

3.183. China adopts five methods for the government procurement of goods, services and works: public tendering, selective tendering, competitive negotiations, request for quotation, and single-source procurement. There is no difference in the procurement methods used at the central and local level. The Measures for the Administration of Tenders and Invitations to Bid in Government Procurement of Goods and Services (MOF Order No. 18 of 11 September 2004) provide the details on tendering procedures.

[189] WTO document WT/TPR/M/230/Add.1, 22 February 2011, p. 99.

3.184. *Public or selective tendering* are the main procurement methods; public tendering is required for procurement of items exceeding the prescribed procurement thresholds. The thresholds for central government procurement for 2013-14 are still RMB 1.2 million for goods and services, and RMB 2 million for construction projects. Ministry of Finance approval is required for procurement exceeding these thresholds by any other method. For procurement below the above-mentioned thresholds, the procuring entity may choose to apply another of the remaining four procurement methods specified in the Law. However, in accordance with the Government Procurement Law, if it is considered necessary to adopt a method other than public tender, departmental approval is required. The Law forbids a procuring entity from breaking procurement up into parts to avoid the use of public tendering by being below the mandatory threshold. When public tendering is adopted as the procurement method, the period from the date of issuance of the tender to the deadline for submission of the bid documents by bidders must be not less than 20 days. The tender procedure is annulled when there are less than three suppliers that meet the qualifications required or the prices offered exceed the procurement budget.

3.185. Goods or services may be procured under the *selective tendering method* when they are special and can only be procured from a limited number of suppliers or when the cost of holding a public tender represents an excessive proportion of the total value of the procured items. At least three bidders must be invited to participate in a selective tendering process.[190]

3.186. The *competitive negotiation method* may be used if, after a selective tendering process has been attempted, no supplier has submitted an offer or the offers have been deemed inadequate, or when a second selective tendering process has been attempted but has failed. Procurement can take place under the method of competitive negotiation also due to the technical complexity or the special nature of the goods and services procured, in cases of urgency, or when the total value of the goods or services to be procured cannot be determined in advance. If competitive negotiation is used as the procurement method, a negotiation team composed of three or more representatives of the procuring entity and experts in the relevant fields must be formed. The negotiation team must choose no fewer than three suppliers from among all the qualified suppliers to participate in the negotiation and must provide them with the documents for negotiation. These must contain the negotiation procedures and contents as well as the criteria for evaluating an offer. All members of the negotiation team jointly negotiate with the suppliers individually. Once the negotiation is concluded, the negotiation team shall request all the suppliers participating in the negotiation to quote their final offering prices within a specified time limit. The procuring entity must decide on the successful supplier from among the candidates recommended by the negotiation team on the principle that the supplier meets the procurement need and that the price it quotes is the lowest among the prices quoted for goods of equal quality and for equal services.

3.187. The *single-source procurement* method can be used when goods or services can be procured from only one supplier, when they cannot be procured from other suppliers due to an unforeseeable emergency, or when procurement of additional items or services from the same supplier is expected to be required, provided that the total value of the additional procurement does not exceed 10% of the value of the base procurement contract. The *request for quotations* method may be adopted for the procurement of goods with uniform specifications and standards, that are in sufficient supply and for which prices fluctuate little. The Law mandates that in cases of single-source procurement, the procuring entity carries out the procurement on the basis of guaranteed quality and reasonable price.

3.188. In cases where the *request for quotations method* is used, a team with a similar composition as for competitive negotiation must be set up. The team must, on the basis of the procurement needs, choose not less than three suppliers from among all the qualified suppliers and send each of them a quotations-inquiry notice to solicit their quotations. The supplier offering the lowest price among the prices quoted for goods of equal quality and equal services must be chosen.

3.189. The procurement method most widely used is public tendering, which accounted for 80.7% of total procurement in 2011, up from 77% in 2010; competitive negotiation accounted for 6.4% of the total; single-source procurement 5.9%; requests for quotation 4.1%; and selective tendering 2.9% (Table 3.19).

[190] MOF Order No. 18 of 11 August 2004, Article 3.

Table 3.19 Government procurement by procurement method, 2010-12

(RMB billion)

Year	Procurement method					
	Total	Public tendering	Selective tendering	Competitive negotiation	Request for quotations	Single-source procurement
2010	842.2	648.2	29.3	63.7	41.7	59.3
2011	1133.2	914.7	32.9	72.0	46.3	67.6
2012	1397.8	1170.6	38.6	72.3	67.9	48.4

Source: Information provided by the Chinese authorities.

3.190. Procuring entities must announce government procurement and bidding information in media designated by the Ministry of Finance in "a timely and standard manner" to ensure transparency and fair competition. MOF Order No. 18 of 11 August 2004 sets out the contents and procedures for announcing procurement information, as well as the deadlines for the Tender Pre-Qualification Notice, and the closing dates for the tender, submission and announcement of bidding results.

3.191. There are three bid evaluation methods for procurement of goods or services in an invitation for bids, namely, the lowest-price method, comprehensive-scoring method and the price quality method. The lowest-price method refers to the bid evaluation method in which the determination of candidate suppliers is mainly based on prices on the premise that all substantive requirements in the bid invitation documents have been met. Under the comprehensive-scoring method, choice falls between the bidders who get the highest total scores in the bid evaluation after the bids have been evaluated according to all the factors stated in the bid invitation documents, on the premise that the substantive requirements in the bid invitation documents are met to the fullest extent. The main factors of comprehensive scoring include: price, technical and financial status, credit standing, performance, services, the extent of the response to the bid invitation documents, and the corresponding proportion or weight, amongst others; they must be clearly stated in the bid.[191] Under the price quality method, the total score of each effective bidder in terms of all scoring factors except the price factor is calculated and divided by the bidding price quoted by the bidder. The bidder with the highest quotient is regarded as a candidate supplier for winning the bid or the bid-winning supplier.

3.192. Results are listed in bottom-to-top order according to the quoted bidding prices when the lowest price method is adopted. In case the quoted bidding prices are the same, the decision is made on the basis of technical indicators. If a bidding price is deemed unreasonable or below costs, the candidate supplier is required to provide relevant supporting documents. When the comprehensive scoring method is adopted, results are listed in bottom-to-top order according to the scores in the evaluation. When the price quality method is adopted, tender results are listed in bottom-to-top order according to the quotient scores. In case of ties, quoted bidding prices or technical indices, in that order, will be the deciding factors for both methods. After the process is concluded, a bid evaluation report is issued. After the bid-winning supplier has been determined, the bidding result is announced.

3.193. Bidders, if unfairly excluded from procurement processes or treated in a discriminatory way, may complain to the procuring agency, appeal to the Government Procurement Division of the Ministry of Finance, or subsequently file a complaint with a court. According to information provided by the authorities, in 2011, the finance authorities at various levels all over China accepted 521 complaints raised by suppliers against government procurement.

3.194. China has not signed any bilateral or regional agreement on market access for government procurement to date.[192]

3.195. As was reported in the previous Review, imports used for procurement purposes still require approval from the Ministry of Finance, or its corresponding departments at the local level.

[191] In accordance with MOF Order No. 18 of 11 August 2004, when the comprehensive-scoring method is adopted, the weight ascribed to the price score in the total score must be between 30% and 60% in the case of goods, and between 10% and 30% in the case of services.

[192] The agreement with Switzerland contains provisions regarding the exchange of information on government procurement.

They are governed by the Administrative Measures for Government Procurement of Imported Products, which set out the conditions for government procurement of imported foreign products and technologies. No data on the percentage of imported goods and services in total procurement are available as yet.

3.196. Since 1 December 2011, there is no longer any condition attached to government procurement regarding "indigenous innovation". A State Council measure mandating that provincial and local governments eliminate any remaining linkages came into force on 1 December 2011.

3.197. China is currently an observer to the GPA. China applied for accession to the GPA on 28 December 2007 and its initial offer was circulated to Parties on 7 January 2008. Discussions dedicated to China's accession took place on multiple occasions during the 2008-2013 period. In November 2011, China submitted a second revised GPA accession offer to the WTO, covering local governments for the first time. The offer included coverage for five provinces and municipalities directly under the Central Government, i.e. Beijing, Tianjin, Shanghai, Jiangsu and Zhejiang, lowered the thresholds for construction projects of Central Government entities and increased the types of service offers.

3.198. On 29 November 2012, China circulated its third revised coverage offer. The offer added annexes of goods, included the Shandong, Fujian and Guangdong Provinces, expanded the coverage of sub-central government entities and further lowered the thresholds of construction projects. Substantive discussions on this offer were held on 5 December 2012, 27 February 2013, 29 May 2013 and 9 October 2013. China circulated its replies to the questions from the Republic of Korea and Japan regarding its replies to the Checklist of Issues on 27 February 2013. In the course of discussions, Parties expressed their appreciation to China for the improvements to coverage that were contained in the offer and for its commitment to its GPA accession. Nevertheless, several Parties also expressed disappointment that various other requests that had previously been made by the Parties concerning China's second revised offer were not reflected in the third revised offer. In particular, Members encouraged China to submit a revised offer to respond to Parties' requests by lowering thresholds, further increasing coverage of sub-central entities, and making improvements in other areas. The GPA Committee has expressed the view that "China's GPA accession, on the appropriate terms, is a matter of great significance for the Agreement, for the WTO, and for the world economy; and a very important signal for other emerging economies".[193]

3.3.5 Intellectual property rights

3.3.5.1 Overview and institutional developments

3.199. The Inter-Ministerial Joint Conference for the Implementation of National Intellectual Property Strategy, established in October 2008, is in charge of coordinating the implementation of intellectual property policy and regulations across relevant ministries and agencies. The Conference is chaired by the Commissioner of the State Intellectual Property Office (SIPO) and its tasks are executed by the National Intellectual Property Strategy Office (NIPSO), situated in the SIPO.[194] The Conference annually issues a Promotion Plan for the Implementation of the National Intellectual Property Strategy, with specific actions to be carried out during the year in question to attain the goals of the strategy. In 2013, the strategic themes/actions identified were grouped under eight main goals:

a. *enhancing intellectual property (IP) creation by raising the quality of intellectual property rights (IPRs), as well as innovation efficiency*. The aim is to improve IPR protection by reinforcing the evaluation system and promoting the quality of IP by upgrading the value generated by its protection. Measures proposed to attain this include: streamlining the process of patent applications and improving the patent examination system; improving the trademark examination process and completing the registration review cycle in 10 months; continuing progress in the development of an automated trademark

[193] Report (2013) of the Committee on Government Procurement. WTO document GPA/121, 24 October 2013.

[194] Information (in Chinese) on China's intellectual property strategy at the national, regional, and industrial level and NIPSO's activities can be found on the website of the Office (http://www.nipso.cn).

registration and management system; enhancing the effectiveness of trademark registration; completing trademark opposition review proceedings within 18 months; developing and refining new plant varieties testing guidelines and approval rules;

b. *strengthening IP in key industries*. This is to be done by: promoting the integration of IPR protection with industrial policy; developing and implementing a strategic industries IP work plan to take into account the IPR protection needs of these industries; promoting the development of green technologies and green patent applications by granting them a priority review process; developing an "industry IP risk assessment and early warning system" with respect to selected industrial transformation processes;

c. *promoting the use of IP*. To be achieved by: improving the commercialization of IP-linked and IP-based innovation; implementing policies to facilitate the transfer of IP to enterprises; and promoting the commercialization of IPRs;

d. *strengthening IPR protection*. To be achieved by: revising the key laws and implementing regulations; strengthening IPR protection for pharmaceuticals; stepping up copyright protection on the Internet; enhancing the effectiveness of judicial IPR protection and the capacity of administrative enforcement by, for example, continuing to expand the number of courts dealing with IPR issues (see enforcement section, below); stepping up efforts to continue fighting against counterfeiting and sale of fake goods, including on the Internet; stepping up efforts to combat cyber piracy "network operations", in audio, video, games, and software; launching a "patent law enforcement capacity-building project"; improving trademark protection through well-known brand programmes and the promotion of licensing; strengthening customs protection of IPRs; strengthening the protection of IP resources in fields with traditional advantages; enhancing the ability to deal with international cases; implementing the special protection operations and assistance programmes for key fields and industries, promoting the information disclosure of IP cases subject to administrative penalty;

e. *enhancing IP management capacity* through a revision of regulations and elaboration of policies to this end;

f. *development of IP services*, including access to information, and support to other industries, and improvement in the qualification of patent lawyers. This is to be achieved by strengthening and promoting the use of IP information resources, promoting the expansion of IP service providers' businesses, and training IP service providers;

g. *strengthening the public's IP culture* through education, public campaigns, and by combating IPR infringement in advertising. Also by strengthening the dissemination of IP knowledge, the training of personnel, fostering an IP culture climate of respect for knowledge, strengthening the supportive role of IP in the development of cultural industries, and providing support to the integration and development of IP in the media industries, in literature and in art[195];

h. *improving the organization and implementation of the IP strategy*. To be achieved by: fulfilling the five-year goals established in the National Intellectual Property Strategy; strengthening the platform for the implementation of the IP strategy; holding special publicity activities; and carrying out an evaluation and selection of the best performers in implementing the National IP Strategy.

3.200. During the period under review, China has continued to implement measures to improve its IPR protection regulatory environment. This has been done by amendments to legislation and regulations, as well as departmental rules. One of the most prominent changes during the period under review has been the enactment of the third amendment to the Trademarks Law in August 2013, effective 1 May 2014. China also promulgated the Administrative Measures on Prioritized Examination of Invention Patent Applications in 2012.

[195] NIPSO online information. Viewed (in Chinese) at: http://www.nipso.cn/onews.asp?id=16983.

3.201. China is a member of the World Intellectual Property Organization (WIPO), and a contracting party to various international conventions and treaties (Table 3.20). During the period under review, China signed the Beijing Treaty on Audiovisual Performances (26 June 2012) and the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (Marrakesh VIP Treaty) (28 June 2013). As at end 2013, these treaties had not yet come into force. China has continued to increase the number of IPR protection applications through international treaties, particularly in the area of patents. In 2012, Chinese citizens filed 18,614 applications through the Patent Cooperation Treaty (PCT) system, an increase of 13.5% over 2011, and triple the number of applications filed in 2008.[196] There were 2,100 trademark applications filed through the Madrid system in 2012, slightly less than in 2011, but a third more than in 2008.

Table 3.20 China's membership of international intellectual property rights conventions, 2013

Convention	Status	Date of accession
Beijing Treaty on Audiovisual Performances	Signature	
Berne Convention for the Protection of Literary and Artistic Works	In force	15 October 1992
Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure	In force	1 July 1995
Convention Establishing WIPO	In force	3 June 1980
Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms	In force	30 April 1993
International Convention for the Protection of New Varieties of Plants (UPOV Convention)	In force	23 April 1999
Locarno Agreement Establishing an International Classification for Industrial Designs	In force	19 September 1996
Madrid Agreement Concerning the International Registration of Marks	In force	4 October 1989
Marrakesh VIP Treaty	Signature	
Protocol Relating to the Madrid Agreement concerning the International Registration of Marks	In force	1 December 1995
Nice Agreement Concerning the International Classification of Goods and Services for the Purpose of the Registration of Marks	In force	9 August 1994
Paris Convention for the Protection of Industrial Property	In force	19 March 1985
Patent Cooperation Treaty	In force	1 January 1994
Singapore Treaty	Signature	
Strasbourg Agreement Concerning the International Patent Classification	In force	19 June 1997
Trademark Law Treaty (TLT)	Signature	
Washington Treaty on Intellectual Property in Respect of Integrated Circuits	Signature	
WIPO Copyright Treaty	In force	9 June 2007
WIPO Performances and Phonograms Treaty (WPPT)	In force	9 June 2007

Source: WIPO online information. Viewed at: http://www.wipo.int/treaties/en/ShowResults.jsp?country_id=38C.

3.3.5.2 Industrial property

3.3.5.2.1 Patents

3.202. The institution in charge of patent administration nationwide in China is SIPO, under the State Council. The State Patent Office, under SIPO, is responsible for receiving and processing patent applications and granting patents. Local IPR administrative offices deal with hearing and settling controversies with respect to patents.

[196] WIPO statistics. Viewed at: http://www.wipo.int/ipstats/en/statistics/country_profile/countries/cn.html. The ten main users of the PCT system in 2012 were: ZTE Corporation (3,906 applications); Huawei Technologies Co. Ltd. (1,801); Shenzhen China Star Optoelectronics Technology Co. Ltd. (204), Huawei Device Co. Ltd. (200); China Academy of Telecommunications Technology (171); Institute of Microelectronics of the Chinese Academy of Sciences (161); Tencent Technology (Shenzhen) Co. Ltd. (122); Hunan Sany Intelligent Control Equipment Co. Ltd. (94); Peking University (92); and Da Tang Mobile Communications Equipment Co. Ltd. (82).

3.203. The Patent Law, last amended in 2008, regulates patent protection for inventions, utility models, and industrial designs.[197] The Patent Law is complemented by the Rules for Implementation of the Patent Law, last amended in 2010.[198] Other regulations dealing with patents include the Measures for the Filing of Patent Exploitation License Contracts; the Measures for Compulsory Licensing for Patent Implementation; and the SIPO Rules on Administrative Reconsideration. In 2012, the Administrative Measures on Prioritized Examination of Invention Patent Applications were promulgated.

3.204. Patents are granted for 20 years from the date of filing for inventions, and 10 years from filing for utility models and industrial designs.

3.205. Patent applications are made to SIPO, which screens them for compliance with the requirements of the Patent Law. In case of conformity, SIPO must publish the application within 18 months of the date of filing. The applicant must then submit a request for substantive examination by the SIPO. The request must be submitted within three years of the date of filing, otherwise the application is considered to have been withdrawn. Patent rights are protected during the substantive examination period; in fact they are provisionally protected from the date of application to the date of granting the patent. SIPO issues a notification in this respect; within two months of receipt of this notification, the applicant must complete registration formalities, including paying the registration, annual, and printing fees. The average time required to complete substantive examination for an invention patent was 22.6 months in 2012, compared with 24 months in 2010.

3.206. Patent applications may be re-examined by the Patent Re-examination Board, which consists of technical and legal experts appointed by SIPO and headed by its director. Article 62 of the Rules for the Implementation of the Patent Law stipulates that, if the Board finds that SIPO's decision does not comply with the provisions of the Patent Law and its accompanying rules and regulations, it may revoke the decision and ask SIPO to continue the patent examination. In 2012, the Patent Re-examination Board accepted 17,320 applications for re-examination, 11,427 of which were concluded.

3.207. The acceptance of applications for a foreign or international patent for an invention or utility model in which the "substantial content" of the technical solution was generated within the Chinese territory or resulted from R&D activities of major national projects is subject to a preliminary national-interest clearance.[199] A "confidentiality examination" must be conducted before an application can be filed. There is no definition of substantial content in the Implementing Regulations for the Patent Law. IPRs obtained from major national projects must first be non-exclusively licensed within the territory of mainland China. The eventual licensing or transfer of these rights to foreign parties is subject to the provisions of the Regulations on the Administration of Technology Import and Export, as revised in December 2010.

3.208. China's patent law provides for compulsory licensing of patents. Compulsory licences may be granted in the public interest, or in the event of a national emergency or any extraordinary state of affairs. A compulsory licence may also be granted if the patent owner, without justification, has failed to sufficiently exploit patent rights for three years or uses the rights in a manner that eliminates or restricts competition. This is understood to mean that the exploitation of the patent by the right-holder or licensee is not able to satisfy the domestic demand for the patented product or patented know-how. Compulsory licences for patented inventions or utility models may also be granted if the patent-holders are found to restrict/limit competition through the abuse of their IPRs. The Anti-Monopoly Law (AML) does not, however, provide a definition of abuse of IPRs. A compulsory licence may also be granted under certain circumstances for patented pharmaceutical products in accordance with the amendment to the Patent Law introduced in 2009

[197] WTO documents IP/N/1/CHN/3, 15 December 2010 and IP/N/1/CHN/P/2, 21 December 2010.

[198] WTO documents IP/N/1/CHN/4, 24 August 2011 and IP/N/1/CHN/P/3, 26 August 2011.

[199] Major national projects have been identified in the 2006 Medium and Long-term Plan for Science and Technology; they are projects in 16 fields, coordinated by the Ministry of Science and Technology, that aim at fostering the development of core technologies and social and economic development.

to give effect to the WTO General Council Decision on Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health.[200]

3.209. SIPO deals with issues related to compulsory licensing. If there is a request for a compulsory licence, patent right-holders are notified in writing and must respond to SIPO with comments within a specified period, which varies by case. Upon request by one the parties, SIPO may conduct open hearings. This is normally the case only when the compulsory licensing is requested for non-exploitation of the licence, since if related to national secrets, trade secrets, national emergency, extraordinary state of affairs, or public interest, the hearings are not open to the public. Within three months, patent right-holders may challenge in court a SIPO decision with regard to granting or terminating compulsory licences. No compulsory licences were granted from 2010 to 2013. In fact, China has not granted any compulsory licences since the entry into force of the Patent Law.

3.210. In accordance with Article 69 of the Patent Law, parallel imports of patented goods are allowed.

3.211. During the period under review, China introduced amendments to a number of regulations dealing with patents. China amended the Measures for the Filing of Patent Exploitation Licence Contracts in 2011 and amended the Measures for the Compulsory Licensing for Patent Implementation and the Rules of the SIPO on Administrative Reconsideration and promulgated the Administrative Measures on Prioritized Examination of Invention Patent Applications in 2012. In the case of the amendment to the Measures for the Filing of Patent Exploitation Licence Contracts the goal is to improve the filing procedures of patent exploitation licence contracts and provided better services to the parties. The amendment to the compulsory licensing rules resulted in the integration of the measures regarding compulsory licensing for public health reasons with the general compulsory licensing rules; the amendment took effect on 1 May 2012. The purpose of issuing the Administrative Measures on Prioritized Examination of Invention Patent Applications, which were implemented as from 1 August 2012, is to establish a fast track for patent examination and approval in the case of patent applications linked to strategic emerging industries and to green technologies with significant economic and social impact and a high degree of invention. The purpose of amending the SIPO Rules on Administrative Reconsideration, implemented from 1 August 2012, is to implement the provisions of the State Council's 2007 Regulation on the Implementation of the Administrative Reconsideration Law, which provided for new rules on mediation, examinations and decisions in administrative reconsideration cases, and for their use for settling administrative patent disputes.

3.212. During the period under review, patent applications and grants continued to increase rapidly. In 2012, Chinese citizens filed 535,313 patent applications for inventions, 734,437 for utility models and 642,401 for industrial designs, compared with 415,829, 581,303 and 507,538 applications, respectively, in 2011. Similarly, there has been an upward trend in PCT applications. In 2012, the number of PCT applications submitted by Chinese citizens reached 18,614, up from 16,402 in 2011 and 12,296 in 2010 (Table 3.21).

Table 3.21 Intellectual property rights applications and grants, 2011-12

	2011	2012
	Total	
Patent applications (inventions)		
Resident	**415,829**	**535,313**
Non-resident	110,583	117,464
International applications PCT system	16,402	18,617
Utility model applications		
Resident	**581,303**	**734,437**
Non-resident	4,164	5,853
Industrial design applications		
Resident	**507,538**	**642,401**
Non-resident	13,930	15,181
Patents (invention) granted		
Resident	112,347	143,808
Non-resident	59,766	73,297

[200] Articles 22 and 33 of the Measures for Exercising Patent Compulsory Licences regulate the administration of compulsory licensing of patented drugs.

	2011	2012
	Total	
Industrial design registrations		
Resident	366,328	452,629
Non-resident	13,862	14,229
Trademark applications		
Resident	1,273,827	1,502,540
Non-resident	114,572	117,338
Madrid system	2,205	2,178
Trademark registration		
Resident	926,330	80,786
Non-resident	919,951	75,173

Source: Data provided by the Chinese authorities and WIPO online information. Viewed at: http://www.wipo.int/ipstats/en/statistics/country_profile/countries/cn.html.

3.213. According to information from WIPO, there were 875,385 patents in force in 2012. With respect to patent applications by top fields of technology, the main areas are digital communication (9% of the total); pharmaceuticals (6.8%); computer technology (6.5%); electrical machinery (5.9%), and measurement material (5.1%), among others. Applications were widespread among the different fields of technology, as witnessed by the fact that no individual field reaches 10% of the total and that the category "others" represented 47.3% of the total.[201]

3.3.5.2.2 Trademarks

3.214. The responsibility for the examination of applications, registration and administration of trademarks lies with the State Trademark Office (TMO), under SAIC. At the provincial level and below, local enforcement authorities are responsible for the administration of trademarks. The Trademark Review and Adjudication Board is in charge of the settlement of disputes concerning trademarks. The Board is also responsible for reviewing decisions made by the TMO and ruling on disputed cases on trademarks. The review period of trademark registration was 10 months as of mid-2013, down from 12 months in 2010.

3.215. Trademarks are protected under the Trademark Law, last amended in 2013, its Implementing Regulations, promulgated in 2002, and various rules issued by SAIC.[202] Trademarks are protected for ten years, renewable for ten years, indefinitely. Chinese applicants can submit their applications for trademark registrations either themselves or through an agent recognized or designated by SAIC. Foreign applicants, who do not have residence or business premises in China, must register their trademarks through an agent. The Decision of the Standing Committee of the National People's Congress on Amending the Trademark Law of the People's Republic of China was adopted at the 4th Meeting of the Standing Committee of the 12th National People's Congress on 30 August 2013, to come into force on 1 May 2014.

3.216. Registration with the TMO is a prerequisite for protection under the Trademark Law. Foreign applicants must file applications on the basis of reciprocity between their country of origin and China, or of any international treaty to which both are parties unless an agreement has been concluded between their country of origin and China. Registration may be rejected if the mark involves a copy, imitation, or translation of well-known brands that have not been registered in China for the same or similar goods and services, and it easily creates ambiguity or if the mark involves a copy, imitation, or translation of well-known brands that have been registered in China for goods and services that are not deemed identical or similar to the goods and services in question. This may mislead the public and result in possible harm to the interests of the well-known brand right-holders. Prior right-holders or relevant stakeholders have a five-year period to contest the registration of a trademark and request its revocation to the Trademark Review and Adjudication Board. This timeframe limitation does not apply in cases of abusive registration.

3.217. If the TMO refuses to register a trademark, the applicant may appeal the decision before the Trademark Review and Adjudication Board; the appeal must be presented within 15 days of receipt of the notification of the decision. The newly-amended Trademark Law specified time

[201] WIPO online information. Viewed at: http://www.wipo.int/ipstats/en/statistics/country_profile/countries/cn.html.
[202] The rules related to trademark administration in China may be viewed at: http://sbj.saic.gov.cn.

limits within which the Board must make its decision. If the Board upholds the TMO's decision, the applicant may take the case to court within 30 days of notification.

3.218. SAIC's Rules on Recognition and Protection of Well-known Brands, promulgated in April 2003, define "well-known brands" as trademarks that are widely known and enjoy a high reputation among the relevant public in China. China's third amendment to the Trademark Law provides more detailed guidelines for the identification of well-known trademarks. However, the Law does not set time limits for the identification process. As at end 2013, SAIC had recognized 4,486 trademarks as well-known brands, of which 156 were owned by foreign-funded enterprises.

3.219. According to the Trademark Law, the TMO has the right to revoke any trademarks that are not used for three consecutive years without any justified reasons.

3.220. Several regulations have been introduced to enforce trademark protection in e-commerce. SAIC's Circular of Opinions on Extending Cross-Provincial Enforcement to Commodities Trading on the Internet and its Related Services (Gong Shang Shi Zi 2011/11), issued on 27 May 2011, facilitates the procedures for cross-provincial investigations regarding IPR violations through the Internet. The Interim Measures on Administration of Commodities Trading on the Internet and its Related Services, SAIC Decree 2010/49, which entered into effect on 1 July 2010, requires the operator of the Internet trading platform to take the necessary actions against trademark infringement, and makes the operator responsible for disciplining users of the platform, as well as liable for any damage caused by misuse of the platform. A judicial interpretation (JI) issued by the Supreme People's Court on the liability of Internet intermediaries (Rules of Supreme Court on Several Issues Concerning the Application of Law in Adjudication of Civil Disputes Related to Infringement of the Right of Communication through Information Networks), effective 1 January 2013, clarifies some enforcement issues by specifying that that those who facilitate online infringement will be held jointly liable for that conduct.

3.221. China currently has no explicit rules on parallel imports in the fields of trademarks or copyright.

3.222. The main change with respect to trademarks during the period under review has been the enactment of the third amendment to the Trademarks Law in August 2013. Entrusted by the State Council, SAIC undertook the task of amending the Trademark Law for the third time. SAIC formulated a first draft of the new Trademark Law (Amendment Draft for Examination) to the State Council in November 2009. The Executive Meetings of the State Council adopted the draft in October 2012 and submitted it to the Standing Committee of the National People's Council (NPC) for consideration in November 2012. The 30th meeting of the 11th Standing Committee of the NPC considered the draft amendment for the first time in December 2012 and solicited opinions from the public through the NPC website. The time frame for sending comments was from 28 December 2012 to 31 January 2013. The Decision of the Standing Committee of the National People's Congress on Amending the Trademark Law of the People's Republic of China was adopted at the 4th Meeting of the Standing Committee of the 12th National People's Congress on 30 August 2013, and will come into force on 1 May 2014.

3.223. Among the changes to the Trademark Law introduced by the third amendment are: the acceptance of sound marks for protection; the adoption of a "one-trademark-registered-for-multiple-class" system as a new way of application for registration, as well as of online electronic applications to facilitate registration; the protection of well-known trademarks; the introduction of the principle of good faith for the registration and use of trademarks; the increase of penalties for trademark infringements; and the strengthening of the protection of exclusive trademark rights.

3.3.5.2.3 Geographical indications

3.224. There is no specific legislation for geographical indications (GIs) in China. They are covered by the Trademark Law and its Implementing Regulations and may be registered as collective marks or certification marks with the TMO under the same procedure as for trademarks. GIs may be also registered with AQSIQ or the Ministry of Agriculture. The party concerned can voluntarily choose under which governmental agency(ies) to register its GIs. Once infringements occur, the interests of the party will be protected pursuant to the relevant laws and regulations under which its GIs are registered. In case a single GI is registered for protection with different agencies, each agency would play its due regulatory role strictly according to its respective mandate.

3.225. If registered with the TMO, the protection period of registered GIs is the same as for other trademarks, that is, they are granted ten-year protection, renewable for ten years, indefinitely. If registered with AQSIQ, GIs are protected permanently. Agricultural-product GIs from foreign countries must be registered in China to be protected. Once registered, they are protected permanently.

3.3.5.3 Copyright and related rights

3.226. Copyright registration and enforcement is carried out at both the central and provincial levels. The National Copyright Administration of China (NCAC), under the State Council, administers copyright on a national scale. At the provincial level, copyright registration and administration is carried out by the respective local copyright administration offices.

3.227. Copyright is implemented and regulated in China under the Copyright Law, as revised in 2010, its Implementing Regulation, last revised in 2010, and accompanying regulations, such as the Regulations for the Protection of Computer Software, the Regulation on the Collective Administration of Copyright, and the Regulations on Protection of the Right of Communication through Information Networks.

3.228. The term of protection for natural persons is life plus 50 years (Article 21 of the Copyright Law).[203] The term of protection in respect of a work of a legal entity or other organization or a work which is created in the course of employment and the copyright (except the right of authorship) of which is held by a legal entity or other organization, is 50 years. The term of protection for cinematographic and photographic works is 50 years, and for typographical designs, 10 years. Software copyright exists from the date on which its development is completed. Audio and video productions, broadcasting, and public performances are granted protection for 50 years from the first day of production, broadcasting, or performance.[204]

3.229. Chinese citizens, legal entities or other organizations enjoy copyright protection automatically on their works, whether published or not.[205] In China, registration is voluntary and is not necessary for protection. Regardless of their nationality, foreigners whose works are first published in the territory of China enjoy copyright protection in accordance with the law. In addition, works of foreigners who are citizens or residents of countries or territories that have signed bilateral copyright protection agreements with China and/or are also parties to the same relevant international conventions on copyright as China are protected under the Copyright Law, provided their copyrights have been recognized according to the above-mentioned relevant bilateral agreements or international conventions. Protection under Chinese law may be granted to works of persons who are not citizens or residents of countries or territories as defined above, as long as their works are first (or simultaneously) published in country(ies) or territory(ies) party to the same relevant international conventions on copyright as China.

3.230. In accordance with the Copyright Law, copyright includes the following personal and property rights: publication; authorship; revision; integrity (the right to protect a work against distortion and mutilation); reproduction; distribution; rental; exhibition; performance; presentation; broadcasting; communication through information networks; cinematography; adaptation; translation; compilation; and other rights to be enjoyed by copyright owners. Copyright owners or owners of related rights may authorize collective non-profit copyright administration organizations to exercise their rights.

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[203] In the case of more than one right-holder, protection is granted for 50 years after the death of the last surviving right-holder.

[204] Articles 39, 42 and 45 of the Copyright Law (revised in 2010).

[205] Under the Copyright Law, works are understood as: written works; oral works; musical, dramatic, quyi, choreographic and acrobatic works; works of the fine arts and architecture; photographic works; cinematographic works; graphic works such as drawings of engineering designs and product designs, maps and sketches, and model works; computer software; and other works as provided for in laws and administrative regulations.

3.231. The Law provides for copyright licensing and the transfer of rights. Licensing can be exclusive or non-exclusive.

3.232. Parallel imports are not covered in the current copyright legislation.

3.233. On 30 January 2013, the State Council promulgated the Decisions on Amending the Regulations for Protection of Computer Software, the Implementing Regulations of the Copyright Law and the Regulations on the Protection of the Right to Network Dissemination of Information through Orders 632, 633 and 634, respectively, which adjusted and amended the amount of administrative fines. The adjustments and amendments mainly include the following three aspects: (i) where the fines are calculated based on the illegal operation proceeds, the decisions provide for different fine levels, based on an illegal income threshold of RMB 50,000. The fine is less than RMB 250,000 if the illegal operation proceeds are less than RMB 50,000; it is between 100% and 500% of the illegal operational proceeds if they are more than RMB 50,000. The Decisions adjusted the maximum amount of the fines from 300% to 500% of the illegal operation proceeds; (ii) where the fines are calculated based on the value of products, the amount of the fines is changed to "more than 100% but less than 500% of the value of the products", from "less than 500% of the value of the products"; (iii) the ceiling limit of the fines is changed to RMB 250,000 from RMB 100,000 except for computer software, where it is increased to RMB 200,000 from RMB 50,000. The authorities have indicated that China amended the three above-mentioned administrative regulations mainly because the previous level of fines was low and their deterrent force on infringing and violating acts was weak or insufficient.

3.234. In accordance with the Interim Measures for Payment of Remuneration by Radio and Television Stations for Broadcasting Sound Recordings, implemented on 1 January 2010, broadcasting organizations must pay remuneration to the copyright owners for broadcasting musical works. The methods and amounts of such payment are subject to agreement with the copyright collective administration organization. Following implementation of the Measures, broadcasting organizations began to pay remuneration to copyright collective administration organizations in China. At the beginning of 2010, the Music Copyright Society of China concluded a remuneration agreement with CCTV, the first such remuneration payment by a Chinese broadcasting organization for broadcasting music. At the beginning of 2012, the Music Copyright Society of China concluded a collective agreement on remuneration payment for using music with 32 television stations members of the Television Copyright Commission of the China Radio and Television Association.

3.235. The authorities have indicated that Chinese copyright collective administration organizations have been studying appropriate methods for collecting and distributing royalties under collective administration. They have been absorbing new members to enhance their representative role and hence have become more influential. In 2011, Chinese copyright collective administration organizations received copyright royalties for a total of RMB 201.2 million and distributed copyright royalties of RMB 173.86 million. The Music Copyright Society of China is China's largest (by number of members) copyright collective administration organization, with 6,523 members and an annual income of RMB 88.89 million. The China Audio-Video Copyright Association received the highest annual income in 2011, reaching RMB 110 million. The China Written Works Copyright Society enjoyed the most rapid growth in the number of members. In 2011, the Society accepted 1,715 new members, its total members reached 6,084, and the number of works authorized by its members amounted to 28,928.

3.3.5.4 Other IPRs

3.3.5.4.1 Layout-designs of integrated circuits

3.236. Layout-designs of integrated circuits are protected under the Regulations on the Protection of Layout-Designs of Integrated Circuits (promulgated by Decree No. 300 of the State Council in 2001, and effective as of 1 October 2001) and under the Rules for Implementing the Regulations on the Protection of Layout-Designs of Integrated Circuits (promulgated by Decree No. 11 of the Commissioner of the State Intellectual Property Office of the People's Republic of China on 18 September 2001, and effective as of 1 October 2001).

3.237. SIPO is responsible for the registration and granting of layout-designs of integrated circuits. Where any application for registration of layout-designs contains confidential information, the copy or drawing of the layer of layout-designs containing such confidential information can be submitted in a separate confidential file bag.

3.238. Layout-designs are protected for 10 years from the date of filing or the date of first commercial exploitation anywhere in the world, whichever expires earlier; the maximum duration of protection is 15 years from the date of creation. In cases of non-exploitation, and in special circumstances, or to remedy unfair competition practices, a "non-voluntary" licence may be issued to exploit a layout-design. No "non-voluntary" licences have been issued to date.

3.3.5.4.2 New plant varieties

3.239. New plant varieties are regulated by the Regulations on the Protection of New Varieties of Plants, 1997, amended most recently in March 2013. Plant varieties are protected for 20 years from the date of authorization in the case of vines, forest trees, and ornamental trees, and for 15 years for other plants. Applications for the protection of new plant varieties are made to the Ministry of Agriculture or the State Forestry Administration. Compulsory licences may be granted by the approval and examination authority for exploitation of the protected plant variety where it is in the national or public interest. No such compulsory licences have been granted.

3.240. On 31 January 2013, the State Council promulgated the Decision on Amending the Regulations on the Protection of New Varieties of Plants. The amended Regulations took effect from 1 March 2013. The Decision mainly amended the rules on penalties for infringement, which were intensified to crack down on IPR infringement.

3.3.5.4.3 Undisclosed information and trade secrets

3.241. There is no specific legislation or regulations on undisclosed information and trade secrets, with the exception of the Regulations for the Implementation of the Law on Drug Control. Undisclosed information and trade secrets are also covered under a number of other laws and regulations, including the Criminal Law, the Anti-Unfair Competition Law, the Labour Law, and regulations issued in accordance with these laws.

3.242. The People's Courts exercise their judicial power to try civil and criminal cases related to undisclosed information and the protection of trade secrets. The Public Security Agency is responsible for criminal investigations in cases that seriously infringe undisclosed information or trade secrets, while SAIC is in charge of the administrative enforcement of the law in this regard.

3.243. Under the Regulations for the Implementation of the Law on Drug Control, China protects test data and other data that are self-obtained, undisclosed, and submitted by manufacturers or sellers to obtain an approval for manufacturing or selling a drug that contains new chemical entities. It is forbidden to use such undisclosed test data and other data for improper commercial purposes. The protection term for the manufacturer or seller is of six years from the approval for manufacturing or selling the drug. During this period, the authorities are mandated to deny approval to other applications using the same data. A similar protection term is granted for undisclosed data on agro-chemicals under the *Regulations on Administration of Agricultural Chemicals*.

3.244. In the course of the meetings held under the auspices of the U.S.-China Strategic and Economic Dialogue (S&ED) and the U.S.-China Joint Commission on Commerce and Trade (JCCT), China committed to prioritize trade secrets in its IPR protection policies and to increase enforcement in this area.

3.3.5.5 Enforcement

3.3.5.5.1 Overview

3.245. Enforcement of IPRs in China is done at the administrative and judicial levels and corresponding measures are adopted. Administrative actions are taken by the responsible governmental agencies. Judicial actions are taken through the public security authorities, procuratorial organs, and the courts. The authorities underscored that, during the period under review, China had paid particular attention to strengthening its enforcement system. All public security authorities above the prefecture and city levels in China have established IPR crime coordinating activities and lead organizations to arrange and coordinate action to crack down on infringement and counterfeiting activities. The Ministry of Public Security has also concluded coordination and cooperation agreements with other agencies, including the industrial and commercial authorities, Customs and quality inspection authorities. This arrangement will facilitate the timely reporting of IPR infringements and prompt early intervention by the public security authorities.

3.246. Table 3.22 gives an overview of enforcement actions taken by the authorities during the period under review. IPR cases dealt with by the courts doubled between 2010 and 2012 and declined somewhat in 2013.

Table 3.22 Intellectual property enforcement, 2010-13

	2010	2011	2012	2013
Cases dealt with by administrative actions				
Patents				
Number of disputes (patent infringement disputes)	1,095	1,286	2,232	..
Copyright				..
Number of disputes/administrative penalties	10,590	12,023	..	..
Imposition of fines (RMB million)	22,143	15,029	..	..
Cases transferred to judicial agencies	538	501	..	..
Businesses inspected	963,842	1,303,855	..	..
Illegal operation units banned	61,995	15,002	..	..
Underground dens detected	727	753	..	..
Trademarks				..
Number of disputes	56,034	79,021	66,227	..
Trademark infringements	48,548	68,836	59,085	..
Other	7,486	10,185	7,142	..
Cases transferred to judicial agencies	175	421	576	..
Value of fines (RMB million)	460.01	595.52	525.07	..
Cases handled by Customs at the border (shipments)	21,073	18,188	15,690	..
Value (RMB million)	44.7	233	60.6	..
Cases dealt with by courts	54,779	75,103	110,232	99,842
First instance civil IPR cases accepted	42,931	59,882	87,419	88,583
First instance civil IPR cases closed	41,718	58,201	83,850	88,286
Patent cases accepted	5,785	7,819	9,680	9,195
Patent cases closed	5,298	7,413	9,173	9,174
Trademark cases accepted	8,460	12,991	19,815	23,272
Trademark cases closed	8,153	12,627	19,079	22,358
Copyright cases accepted	24,719	35,185	53,848	51,351
Copyright cases closed	24,138	34,300	51,794	52,254
Technical contract cases accepted	670	557	746	949
Technical contract cases closed	694	573	710	908
Unfair competition cases accepted	1,131	1,137	1,123	1,302
Unfair competition cases closed	1,176	1,133	1,092	1,195
Other IPR cases accepted	2,166	2,193	2,207	2,514
Other IPR cases closed	2,259	2,155	2,002	2,397
Second instance civil IPR cases accepted	6,530	7,644	9,588	11,964
Second instance civil IPR cases closed	6,488	7,662	9,301	11,556

.. Not available.

Source: Information provided by the Chinese authorities.

3.247. The authorities stated in the course of the present Review that China has intensified its strategy of combating IPR infringement. Since November 2010, the Ministry of Public Security has led the public security authorities around China to launch nationwide centralized campaigns such as "Drawing Sword" against various criminal offences related to counterfeit and shoddy goods, during which 72,000 cases were resolved, 121,000 suspects were arrested and goods with a total value of RMB 40 billion were involved. The authorities indicated that such campaigns are unprecedented in China in terms of their extent and scope of coverage. In 2013, the

Ministry of Public Security launched another "Campaign to Crack Down on Counterfeiting", directed mainly at crimes damaging public health and safety, crimes committed at their sources, gang crimes and crimes adopting new means. The authorities noted that the campaign eradicated a large number of crimes featuring cross-region chains of manufacturing and selling counterfeit and shoddy commodities.

3.248. The authorities have attached great importance to publicity work and educational efforts to raise public awareness and help combat IPR-related criminal activities. The aim is to guide the public to take the initiative to prevent and resist IPR infringement crimes. The authorities pointed out that they consider that the media exposure of specific cases serves to warn against hazardous manufacturing methods, the sale of counterfeit and shoddy commodities, and alerts the public to the damage caused by such criminal activities. Since 2011, the Ministry of Public Security has successively organized three nationwide special campaigns to destroy the criminal chains and networks that engage in the manufacturing and sale of counterfeit and shoddy commodities.

3.3.5.5.2 Administrative enforcement

3.249. During the period under review, China continued to step up efforts for the enforcement of laws against the infringement of IPRs. The State Council established the Leading Group of the National Campaign Against IPR Infringement and Counterfeit Products, as well as its standing Working Group with its office in MOFCOM. The Leading Group launched special campaigns to crack down on IPR infringement as well as on the manufacturing and sale of counterfeit and shoddy commodities all around China. Accordingly, all regions and member units have since established corresponding leading groups against IPR infringement and counterfeit products. In 2013, the Leading Group was reformed; it currently has 27 member units, and is led by Vice Premier Wang Yang.

3.3.5.5.2.1 Patent administrative enforcement

3.250. In 2011, SIPO promulgated a series of policy documents including the Decisions on Strengthening the Patent Administrative Law Enforcement Work, the Guidelines on Patent Administrative Law Enforcement and the Papers and Forms on Patent Administrative Law Enforcement, and implemented the amended Measures on Patent Administrative Law Enforcement, to improve the procedures of patent administrative law enforcement. In 2012, SIPO launched special nationwide campaigns to enforce IPR laws in key areas such as circulation and production.

3.3.5.5.2.2 Copyright administrative law enforcement

3.251. The authorities have noted that China continued to enhance copyright administrative law enforcement during the period under review. To this end, China launched the special "Online Sword Campaign" to crack down on online infringement under which, in 2012, 282 online infringement cases were reported for investigation, 210 of which were closed through administrative procedures and 72 of which were transferred to the judicial authority for the investigation of criminal responsibility. Also in 2012, 93 sets of servers and relevant equipment were confiscated and 129 websites were closed down. China has also strengthened the voluntary monitoring of video websites. In 2012, the NCAC conducted voluntary monitoring of 19 main video websites.

3.252. In January 2012, the Inter-Ministerial Joint Group for Promoting the Application of Copyrighted Software was established. It is composed of 15 government departments, and has its offices in the NCAC. China has also launched a campaign advocating the application of copyrighted software. Under the campaign, provincial governments undertook inspection and rectification work. The authorities have noted that there has been progress in the use of copyrighted software on the part of state-owned enterprises directly under the Central Government, policy banks, commercial banks, postal savings banks and large insurance companies, headquarters of press and publication enterprise groups and key sectors including coal, tourism and hotels.

3.3.5.5.2.3 Trademark administrative law enforcement

3.253. The Chinese Government has formulated and promulgated a series of documents such as the Opinions on Further Combating IPR Infringement and Manufacturing and Selling Counterfeit and Shoddy Commodities, accelerated the process to amend the Trademark Law, further improved trademark registration procedures and enhanced the protection of the exclusive right to use trademarks.

3.3.5.5.3 Judicial enforcement

3.254. During the period under review, China reinforced the judicial infrastructure needed for court enforcement of IPRs. The number of grassroots People's Courts having jurisdiction over ordinary IPR cases was increased. In 2011, 18 grassroots People's Courts having jurisdiction over first instance civil cases involving ordinary IPR violations were added, taking their total number to 119; in 2012, 22 more grassroots People's Courts were added and the total number was increased to 141. Similarly, in 2011, six more Intermediate People's Courts having jurisdiction over first instance civil cases involving patent disputes were added and the total number was increased to 82; another intermediate People's Court was added in 2012, increasing the number to 83. One more pilot grassroots People's Court having jurisdiction over cases involving utility model and industrial-design disputes was added in 2011 and the total number of such People's Courts was increased to three. In 2011-12, three more courts having jurisdiction over civil cases involving well-known trademark disputes were added and the total number of such courts was increased to 44.

3.255. The authorities have noted that China has unified the application of laws for IPR enforcement in a manner that connects administrative law enforcement with criminal law enforcement. In 2011, the Supreme People's Court, the Supreme People's Procuratorate and the Ministry of Public Security jointly promulgated the Opinions on Several Issues Concerning Laws Applicable to Criminal Cases Related to Intellectual Property Rights, further defining the criteria for applying penalties. In 2012, the Supreme People's Court promulgated a judicial interpretation of the Rules on Several Issues Concerning Laws applicable to Hearing of Civil Disputes Caused by Monopoly Acts and the Rules on Several Issues Concerning Laws Applicable to Trial of Civil Disputes caused by Infringement of the Online Information Dissemination Right, identifying the standards to apply laws. SAIC, the Procuratorate and the Ministry of Public Security jointly formulated the Opinions on Several Issues concerning Strengthening Coordination and Cooperation between Administrative Law Enforcement by Industry and Commerce Authorities and Criminal Justice, with a view to settling the problems arising from coordination and cooperation between administrative law enforcement by industry and commerce authorities and criminal justice.

3.256. China has also made an effort to make judicial issues public and ensure that all aspects of the trial of IPR-related cases are transparent. To this end, the "China IPR Judgments & Decisions" website (http://ipr.chinacourt.org) has been upgraded so that IPR judgments and decisions nationwide can be uploaded to the Internet in a timely manner. By end 2012, 46,161 effective IPR judgments had been published on the website, up from 40,175 at end-2011.

3.257. The authorities have noted that China attaches great importance to the demonstrative and guiding role of typical cases in trials dealing with IPR-related issues. The Annual Reports of the Supreme People's Court on Intellectual Property Rights Cases of 2011 and 2012 selected 34 typical cases from the IPR-related cases closed in 2011 and 2012, and provided a summary of the issues related to the application of laws. The authorities consider that these issues have universal guiding significance and can be used to guide the trial of IPR-related cases by all courts nationwide. The Supreme People's Court also published 10 significant cases and 50 typical cases heard by Chinese courts related to judicial protection of IPR in 2011 and 2012.

3.3.5.5.3.1 Customs law enforcement

3.258. Customs is in charge of IPR enforcement at the border, in accordance with the revised Regulations on Customs Protection of Intellectual Property, which entered into effect on 1 April 2010.

3.259. IPR holders may record their rights with Customs for border protection. Such recorded rights are valid for ten years, renewable. Despite this, right-holders may apply to Customs for detention of suspected infringing goods, whether or not they have recorded their rights with Customs. In accordance with the Regulations on Customs Protection of Intellectual Property, counterfeit goods will be seized by Customs, and Customs shall destroy the goods if the infringing features cannot be removed. However, except in extraordinary circumstances, the imported goods bearing counterfeit trademarks shall not be allowed to enter into the channel of commerce simply by removing the trademark logo from the goods.

3.260. Between October 2010 and June 2011, all customs offices in China launched special campaigns to crack down on IPR-infringing activities and the manufacture and sale of counterfeit goods. According to the authorities, 12,000 batches of goods suspected of IPR infringement were intercepted. In 2012, Chinese customs offices launched a Special Rectification Campaign Against Counterfeit Drugs, Foods and Auto Parts, which consisted of strengthening risk analysis and monitoring of key and sensitive commodities and directing enforcement to more specific targets. A total of 410 cases related to counterfeit food, drugs and auto parts were tracked down in 2012.

3.261. The authorities have noted that, during the period under review, Customs has further strengthened its cooperation with the Public Security Authority, to more effectively connect Customs' administrative law enforcement with criminal law enforcement. Customs has also cooperated with other law enforcement authorities: for example, in June 2012, the General Administration of Customs and SAIC concluded a Memorandum of Cooperation Between the General Administration of Customs and the State Administration of Industry and Commerce.

3.3.5.5.3.2 International cooperation

3.262. The authorities note that China advocates international cooperation in IPR enforcement. China participates in discussions and negotiations in multilateral and plurilateral frameworks such as WIPO, the WTO, and APEC. China is also engaged in bilateral cooperation on IPR protection with the United States, the EU, (and some EU members individually, such as France, the Czech Republic, Germany, Romania and the United Kingdom), Australia, Japan, Republic of Korea, Thailand, and the Russian Federation, in regard to trademarks, copyright, border measures, and other related issues. The authorities have indicated that, in recent years, China has expanded its cooperation with international organizations in relation to IPR law enforcement and strengthened customs monitoring cooperation with the United States, the EU and the Russian Federation, among others. In 2011, China and the United States signed the Letter of Acknowledgement on Revising the Memorandum of Cooperation between the Customs of China and the U.S. on Strengthening Intellectual Property Rights (IPR) Law Enforcement. Also in 2011, China's General Administration of Customs convened the Meeting on Cooperation and Coordination in Strengthening Intellectual Property Rights Protection between Guangdong Province, Hong Kong, China and Macao, China Customs Authorities with the competent authorities of Hong Kong, China and Macao, China.

3.263. In 2011 and 2012, China held three Sino-European expert group meetings and one symposium on customs IPR protection. In 2012, a meeting of the Sino-Russian Working Group on Intellectual Property Cooperation was held. In January 2013, the first meeting of the Sino-U.S. Working Group on Intellectual Property Cooperation and the Sino-U.S. Symposium on Customs Intellectual Property Rights Law Enforcement was held.

4 TRADE POLICIES BY SECTOR

4.1 Agriculture

4.1.1 Features and market developments

4.1. China has evolved into an industrialized economy in which the contribution of agriculture to GDP has remained more or less stable, despite falling somewhat, from 10.7% in 2008 to 10.1% in 2012 and 10% in 2013 (Table 4.1). At the same time, employment in the sector has continued to drop from 39.6% in 2008 to 33.6% in 2012 (latest year for which data were available).[1] Labour productivity in agriculture continues to be lower than in the rest of the economy; this can be attributed to the small scale of production, structure imbalance and a lack of skilled farmers and modernization. China's main agricultural products are grains, cotton, oilseeds and sugar, which require large scale operations and mechanization to achieve higher productivity, two factors that China lacks at present, although mechanization has been on the increase.[2] Garden crops, which are more labour intensive, represent only a small percentage of China's agricultural production.

Table 4.1 Principal indicators for agriculture, forestry and fishing, 2008-13

	2008	2009	2010	2011	2012	2013
Contribution to current GDP (%)	10.7	10.3	10.1	10.0	10.1	10.0
Real growth rate (%)	5.4	4.2	4.3	4.3	4.5	4.0
Employment (percentage of total employment)	39.6	38.1	36.7	34.8	33.6	..
Share of gross output value (%)						
Farming	50.1	53.0	55.3	53.5	54.4	55.1
Forestry	3.8	3.8	3.9	4.0	4.0	4.2
Animal husbandry	36.8	33.5	31.2	32.9	31.5	30.4
Fisheries	9.3	9.7	9.6	9.6	10.1	10.3
Exports						
Agricultural products[a] (US$ million)	29,999.6	28,847.9	35,619.7	43,071.6	44,364.8	..
Top five exports by HS 4-digit (% of total):						
2008 Fruit, nuts, preserved, nes	6.0	5.4	5.2	5.5	5.9	..
1602 Other prepared/preserved meat products	3.3	3.6	3.7	4.0	4.4	..
2309 Animal feed	3.1	3.0	3.5	3.5	4.1	..
0703 Onions	2.7	4.4	7.3	5.8	3.9	..
0712 Dried vegetables	3.1	3.6	5.3	6.1	3.5	..
Agricultural products[a] (% of total exports)	2.2	2.3	2.3	2.4	2.1	..
Agricultural products[a] (growth rate, %)	10.0	-3.8	23.5	20.9	3.0	..
Fisheries (US$ million)	10,221.5	10,356.1	13,302.9	17,106.9	18,269.9	..
Fisheries (% of total exports)	0.9	0.9	0.8	0.9	0.7	
Fisheries (growth rate, %)	9.2	1.3	28.5	28.6	6.8	..
Imports						
Agricultural products[a] (US$ million)	53,563.0	47,568.1	66,273.5	87,216.5	105,215.6	..
Top five imports by HS 4-digit (% of total):						
1201 Soya beans	40.7	39.5	37.9	34.1	33.2	..
5201 Cotton	6.5	4.4	8.5	10.9	11.2	..
1511 Palm oil	9.7	8.9	7.1	7.6	6.2	..
5101 Wool	3.1	3.1	2.9	3.3	2.5	..

[1] Data include employment in forestry and fishing.
[2] According to the authorities, the mechanization rate for planting and harvesting main grains in 2012 reached 57%.

	2008	2009	2010	2011	2012	2013
4101 Raw hides and skins	2.6	2.4	2.3	2.3	2.2	..
Agricultural products[a] (% of total imports)	5.8	5.0	4.7	4.7	4.7	..
Agricultural products[a] (growth rate, %)	45.5	-11.2	39.3	31.6	20.6	..
Fisheries (US$ million)	5,200.3	5,040.2	6,237.9	7,636.9	7,480.3	..
Fisheries (% of total imports)	0.3	0.3	0.4	0.8	0.7	..
Fisheries (growth rate, %)	13.5	-3.1	23.8	22.4	-2.1	..

.. Not available.

a WTO definition.

Source: UNSD, Comtrade database and National Statistics of China online information.

4.2. In 2013, crops accounted for 55% of total agricultural production, up from 50.8% in 2008, while livestock and fisheries accounted for 30.4% (32.2% in 2008) and 10.3% (10.4% in 2008), respectively. The increase in the production of crops, especially of grains, is consistent with China's policies, as the 12th Five-Year Plan calls for an increase in grain production to attain food security and build stocks to ensure price stability. According to the authorities, total grain output has increased for 10 consecutive years and average yields have increased since 2004.[3] In 2013, average yields of grain products (rice, wheat, and maize) continued to increase.

4.1.2 Policy objectives and administration

4.1.2.1 Policy formulation, institutional and legal framework

4.3. There have been no major changes in agricultural policies since the previous Trade Policy Review in 2012. The broader policy goal of "building a new socialist countryside" was stated in the 11th Five-Year Plan (2006-2010), and the 12th Five-Year Plan (2011-2015) reaffirms the policies set out in the former Plan. The 12th Five-Year Plan aims at accelerating modernization in the sector, making food security a primary goal and improving farmer's well-being. This was to be attained through, *inter alia*, increasing support to the sector and by providing more benefits to farmers. In this regard, the authorities noted that in 2011 and 2012, the Central Government allocated RMB 1 trillion and RMB 1.2 trillion for "agriculture, rural areas and water", with a year-on-year increase in outlays of 22.4% and 18%, respectively. In 2013, the Central Government's expenditure on agriculture, forestry and water continued to increase, albeit slightly by 0.2% from 2012. During 2011 and 2013, direct subsidies granted to farmers were increased and so was the minimum purchase price of wheat and rice. In order to reduce poverty, as mandated by the strategy promulgated by the State Council at the end of 2011[4], Central Government direct transfers to poverty-stricken rural areas to benefit impoverished farmers were increased in 2011 and 2012 by 40.4% and 31.9%, respectively.[5]

4.4. More specific objectives of the 12th Five-Year Plan include:

- Increasing production capacity for grains (i.e. rice, wheat, maize and soya beans) by 50 million tonnes by 2020.[6] In 2013, total grain production reached 602 million tonnes. The measures adopted to attain this target included the introduction of high-yield varieties, the use of technology, the building of infrastructure and training of farmers.

- Increasing farm mechanization as well as the development and adoption of biotechnology. To attain this goal China increased the subsidy for purchases of agricultural machinery.[7]

[3] Information provided by the Chinese authorities.
[4] Outline for Poverty Reduction for China's Rural Areas (2011-2020) and New Progress in Development-oriented Poverty Reduction Programme for Rural China. Viewed at: http://www.gov.cn/english/official/2011-11/16/content_1994729.htm.
[5] Information provided by the Chinese authorities.
[6] This is according to The Plan on Increasing National Grain Productivity by 100 Billion Jins (2009-2020).
[7] During 2010-2013, the annual subsidy to purchase agricultural machinery and tools was increased to RMB 15.5 billion, 17.5 billion, 21.5 billion and 21.75 billion, respectively (Information provided by the Chinese authorities).

- Increase in minimum purchase prices for key grains (i.e. rice and wheat) and improvement of the system of temporary purchase and storage for bulk agricultural commodities.

4.5. The Central Government, through the State Council assisted by different ministries and departments, is responsible for establishing the general agricultural policy framework and the rules for its implementation. Agricultural policy implementation remains the responsibility of the Ministry of Agriculture at both the central and the local level; however, other institutions such as the Ministry of Commerce (MOFCOM) play an important role in the implementation of specific policies (Table 4.2). The NDRC, in charge of overall development, also plays a central role in agricultural policy formulation.

4.6. Local governments are mainly responsible for implementing the agricultural policies stipulated by the Central Government. The funds required to implement the programmes at the local level come in general from the central budget and are allocated by the Central Government (e.g. agricultural "four subsidies" (see below)[8], minimum purchase price and temporary purchase and storage polices, large-county award policies and farmers' training projects) and local governments are usually only required to finance the administration costs. Local governments also finance the construction of infrastructure and utilities, costs of preventing epidemics, and the agricultural insurance premium subsidy.

Table 4.2 Institutions in charge of agricultural policies, 2013-14

Institution	Function	Changes since 2012
NDRC	Responsible for overall development strategy and regarding agriculture in charge of: formulating policies to manage national reserves (imports and exports), allocating certain TRQs, and setting minimum purchase prices.	No change
Ministry of Agriculture	Responsible for agriculture and rural development. Drafts medium- and long-term plans regarding the sector's development. Drafts agricultural laws and regulations.	No change
State Administration of Grain	Responsible for the control of grain circulation.	No change
Ministry of Finance	Designs financial policies to support agricultural development. Manages the funds used to support agricultural development and issues guidelines on how to use these funds.	No change
MOFCOM	Responsible for controlling international trade of agricultural products.	No change
The China Food and Drug Administration	Evaluates food safety risks and formulates food safety standards.	Created to merge the functions of other institutions. As a result of its creation the State Food and Drug Administration and the Office of Food Safety Commission of the State Council ceased to operate.
Agricultural Development Bank of China (ADBC)	Provide financial services to agricultural enterprises and projects.	No change

Source: Information provided by the Chinese authorities.

4.7. Some of the main laws regulating the sector (Box 4.1) have been amended in recent years.

4.8. The land tenure system has not changed substantially since the enactment of China's Property Law of 2007. However, recently China has implemented several measures to provide more stability to farmers' contract rights.[9] Farmland is owned by village collectives, which extend contracts to individual households, currently for "at least 30 years". Within the period of the contract, individual farmers are guaranteed the rights to occupy, use and profit from the

[8] The authorities note that this subsidy is financed jointly by the central and local governments.
[9] Document No. 1 of the Central Government of 2013, and Document No. 1 of the Central Government of 2014.

tenure of the land. Prior to 2014 farmers did not have the right to sell or use the contracted land as collateral; however, as of 2014 contracted land can be sold and used as collateral.[10] Farmers can transfer the user's right to another farmer, but cannot convert it into construction land for industrial or business development.

Box 4.1 Agricultural legislation

Laws

1. Agriculture Law (issued on 2 July 1993, amended on 28 December 2002 and 28 December 2012).
2. Agricultural Technology Promotion Law (issued on 2 July 1993 and amended on 31 August 2012).
3. Seed Law (issued on 8 July 2000 and amended on 28 August 2004 and 29 June 2013).
4. Law on Animal Epidemic Prevention (issued on 3 July 1997 and amended on 30 August 2007 and 29 June 2013).
5. Grassland Law (issued on 18 June 1985, amended on 28 December 2002 and 29 June 2013).
6. Fisheries Law (issued on 20 January 1986, amended on 31 October 2000, 28 August 2004 and 28 December 2013).
7. Agriculture Machinery Promotion Law (issued on 25 June 2004).
8. Livestock Law (issued on 29 December 2005).
9. Produce Safety Law (issued on 29 April 2006).
10. Farmers Specialized Cooperatives Law (issued on 31 October 2006).
11. Rural land contract disputes mediation and Arbitration Law (issued on 27 June 2009).

Regulations

1. Agricultural insurance regulations (issued on 12 November 2012).
2. Larger scale livestock pollution control regulations (issued on 11 November 2013).

Opinions

1. Opinions on promoting the development of modern agriculture for rural development (No. 1 of 2013).
2. Opinions on deepening rural reform and speeding up the modernization of agriculture (No. 1 of 2014).

Source: Information provided by the Chinese authorities.

4.1.3 Policy instruments

4.9. There have been no major changes in the policy instruments that China uses to attain its policy goals. China continues to use a broad range of measures including tariff protection, import and export licensing, state trading for certain products, export and import quotas, export tax rebates, minimum support prices for basic crops, support to promote the use of inputs, direct payments, and buffer stock for food security. More recently the People's Bank of China has guided financial institutions to enhance financial support to the agriculture sector.

4.1.3.1 Border measures

4.1.3.1.1 Measures affecting imports

4.10. Agricultural products (WTO definition) are, with the exception of some animal products[11], all subject to *ad valorem* applied rates. The average applied MFN rate in 2013 was 9.4%. Tariff protection continues to be higher for agricultural products (WTO definition), at 14.8%, showing a slight decline from 2009 (15.5%) and 2011 (15.1%) (Table 3.1). Sugars and confectionary (30.9%), cereals and preparations (23.4%), cotton (22.0%), and beverages, spirits and tobacco (21.8%) benefit from higher than average protection. Oil seeds, fats, and oils, China's major import products, have the lowest tariff protection at 10.5% (Table A3.1).[12]

4.11. China bound 100% of its tariff, at *ad valorem* rates. Bound rates for agricultural products (WTO definition) range from 0 to 65% and are higher than bound rates for non-agricultural

[10] This Decision was adopted at the Third Plenary Session of the 18th Central Committee of the Communist Party of China and is set forth in Document No. 1 of the Central Government of 2014.

[11] These products are six tariff lines of HS Chapter 02 (meat and edible offal of poultry) and one tariff line of HS Chapter 05 (products of animal origin).

[12] Average applied MFN rates for 2013 were not compared with those of 2011 because in general there have been no major changes in China's applied MFN tariff rates. However, due to changes in nomenclature tariff lines in different Chapters of the HS have been separated or merged, which could, when averages are calculated, lead to an increase or a decrease, even if the applied rates have in fact not changed.

products which range from 0 to 50%. Bound tariff rates vary considerable by sector; with the higher bound rates applying to cereals and preparations, and beverages and spirits (Table A3.1).

4.12. Tariff rate quotas (TRQs) apply to 47 tariff lines included in HS Chapters 10 (wheat and meslin, maize, rice), 11 (cereal flours other than of wheat or meslin, cereal groats), 17 (cane or beet sugar), 31 (mineral or chemical fertilizers), 51 (wool, carded or combed), and 52 (cotton). In-quota rates have not changed since 2011 and the out-of-quota rates are in most cases equal to the bound rates. All in-quota rates are *ad valorem*, with the exception of the out-of-quota rate that applies to a "certain portion" of imports of cotton. Out-of-quota imports of cotton may be subject to a sliding duty based on a formula, which depends upon the price of cotton, but cannot exceed 40% (i.e. the bound rate for cotton). Under this system, China fixes a threshold price (RMB 14/kg in 2012 and 2013). If the price of imports is equal to or higher than the threshold price a specific duty of RMB 0.57/kg is levied on imports; if the actual import price is lower than the threshold price an *ad valorem* rate based on the formula will be applied.[13]

4.13. According to the authorities, the tariff quota allocation process has not changed since 2012. The NDRC allocates TRQs for grains and cotton, and MOFCOM allocates the rest. Some products subject to TRQs (i.e. grain, cotton, sugar, and chemical fertilizers) are also subject to state trading. In these cases, part of the quota is allocated to state-trading enterprises and another part to private enterprises. The most recent information available for tariff quota utilization dates from 2011 when with the exception of sugar, wool and cotton, the utilization of the other TRQs was low. Historically, the fill rate of TRQs has been low (Table 4.3).

Table 4.3 Tariff rate quotas and their utilization, 2011-12

(Tonnes, unless otherwise indicated)

Products	Out-of-quota rates (%)	In-quota rates (%)	Tariff quota quantity	In-quota imports (2011)	In-quota imports (2012)
Wheat (7 lines)			9,636,000	1,258,000	3,701,000
Wheat and meslin (4 lines)	65	1			
Wheat or meslin flour (1 line)	65	6			
Groats and meal of wheat (1 line)	65	9			
Pellets of wheat	65	10			
Corn (5 lines)			7,200,000	1,754,000	5,208,000
Maize (corn) seed (1 line)	20	1			
Maize (corn) other than seed (1 line)	65	1			
Maize (corn) flour (1 line)	40	9			
Groats and meal of corn (1 line)	65	9			
Pellets of corn (1 line)	65	10			
Rice (14 lines)			5,320,000	598,000	2,369,000
Rice (10 lines)	65	1			
Rice flour (2 lines)	40	9			
Meal of rice (2 lines)	10	9			
Sugar (7 lines)	50	15	1,945,000	1,945,000	1,945,000
Fertilizers (3 lines)	50	4[a]	..	..	..
Wool (9 lines)			287,000	287,000	287,000
Wool, not carded or combed (6 lines)	38	1			
Wool, carded or combed (3 lines)	38	3			
Cotton (2 lines)	40	1	894,000	894,000	894,000

.. Not available.

a Interim duty applied at 1%.

Note: Number of tariff lines in brackets refers to the 2012 tariff schedule.

Source: WTO documents G/AG/N/CHN/25 and G/AG/N/CHN/26, and Customs Tariff of Import and Export of the People's Republic of China.

4.14. The VAT on agricultural domestic and imported goods is 13%. However, agricultural goods produced and sold directly by small-scale farmers remain exempt from the VAT. Units that

[13] The variable rate is calculated according to a formula, which remains unclear to the Secretariat. The formula may be viewed at: Ministry of Finance (2013), Customs Tariff of Import and Export of the People's Republic of China 2013 (The Legal Texts), Beijing, p. 518.

purchase tobacco in leaf (including dried and flue-cured tobacco leaf) are liable to tobacco leaf tax.[14] The tobacco leaf tax is 20% of the purchase price. According to the authorities, China does not levy the tobacco leaf tax on imported tobacco leafs.

4.15. There are no agricultural products subject to non-automatic import licensing. Automatic import licences apply to 76 agricultural products (WTO definition) of a total of 442 products subject to automatic import licensing (17.2% of the total). The main products concerned are: meat, dairy products, oil seeds, fats and oils, and tobacco.

4.1.3.1.2 Measures affecting exports

4.16. In general, exports of agricultural goods are not subject to export taxes. There are only four tariff lines under HS 0506 which are subject to an export tax of 40% (Table 3.9).[15] Exporters of agricultural products are entitled to VAT rebate at the time of exportation. However, there is no information regarding the rebate rates that apply to the different products, which can vary according to the product, nor regarding the products that are exempt from the rebate.[16] The authorities indicated that the rate of rebate is in general 5% with some exceptions. For instance, the rate of rebate for highly processed chicken and duck meats is 13% and there is no rebate for products from endangered animals or plants.

4.17. Agricultural exports subject to state trading are cotton, rice, maize, wheat and tobacco.[17] These products are still subject to export quotas and cannot be traded by private companies. Export quotas on these products are determined according to domestic supply and demand, they are managed by the NDRC and are allocated to state-trading enterprises according to performance.

4.18. Destination-specific quotas remain in place for exports of live cattle, live swine, and live chicken to the Special Administrative Regions of Hong Kong, China and Macao, China. These quotas are distributed through an export licensing system.

4.19. China implements an export licensing system to administer goods subject to export quotas and other restrictions. There are three types of export licensing: export quota licences, export quota bidding licences and export licences (Table 4.4). The different types of licences apply according to the restrictions applicable to the goods in question. Export licensing applies to 71 tariff lines at the HS 8-digit level covering agricultural products (WTO definition); these account for 15.8% of total goods subject to export licences. The main products concerned are: live animals, meat, and cereals and other preparations thereof. The agricultural products subject to export quota licences are wheat, corn, rice, wheat flour, corn flour and cotton.[18]

Table 4.4 Agricultural products subject to export quotas and licensing in 2013

Products	Type of licence	Comment
Goods subject to quota and licensing		
Rice, maize, wheat and cotton	Export quota licensing	The quota is allocated by NDRC
Live cattle, swine and fowl (for export to Hong Kong, China and Macao, China), maize flour, and rice flour and wheat flour	Export quota licensing	The quota is allocated by MOFCOM
Goods subject to licensing		
Live cattle, swine and fowl (for markets other than Hong Kong, China or Macao, China); beef, pork and chicken meat	Export licence	A licence is granted if the exporter has the relevant export contract

Source: Information provided by the Chinese authorities.

[14] The Interim Regulations on Leaf Tobacco Tax of 28 April 2006.
[15] These items are: ossein and bones treated with acid; powder and waste of bones, of bovine animals, sheep or goats; other powder and waste of bones; and bones and horn-cores, unworked, defatted, simply prepared, not cut.
[16] Rebate rates for some products are available online. Viewed at: http://hd.chinatax.gov.cn/fagui/action/InitChukou.do.
[17] Exports of tea were subject to state trading until 2005.
[18] Ministry of Commerce, Announcement No. 96 of 2013. Viewed at: http://www.mofcom.gov.cn/article/b/c/201312/20131200446709.shtml.

4.20. General export prohibitions continue to apply to eight agricultural products (i.e. bezoar, black moss, bones, ivory, musk, some plants used to make perfumes (2 HS tariff lines), and some plants for medicinal use. In addition, 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.

4.21. China has notified to the WTO that it did not maintain or introduce any export subsidies on agricultural products during 2011 or 2012.[19] According to the authorities, thereafter China has not applied export subsidies.

4.1.3.2 Internal measures

4.1.3.2.1 Support measures

4.22. China has made no notifications to the WTO Agriculture Committee regarding the support given to the agriculture sector during the period under review. China's most recent notification regarding domestic support covers the period 2005-2008.[20] Several support programmes covering the period 2005 to 2008 were notified by China under the SCM Agreement (Table 4.5).[21]

Table 4.5 Support to agriculture and forestry

Description	Starting year	Form of subsidy	Legal background
Preferential tax policies for enterprises engaged in projects of preliminary processing of agricultural, forestry, animal, and fisheries products	2008	Preferential tax treatment	Law of the People's Republic of China on Enterprise Income Tax (2007) Regulations for the Implementation of the Law of the People's Republic of China on Enterprise Income Tax (2007) MOF Circular Cai Shui No. 149 of 2008
Fund for specialized economic cooperatives of farmers	2003	Financial appropriations	MOF Circular Cai Nong No. 87 of 2004
Fund for subsidizing the training of the rural migrant labour force	2004	Financial appropriations	MOF Circular Cai Nong No. 18 of 2005
Fund for popularization of agricultural technologies	1999	Financial appropriations	MOF Circular Cai Nong No. 81 of 2004
Fund for subsidizing transformation of agricultural technology	2001	Financial appropriations	MOST Circular Guo Ke Ban Cai Zi No. 417 of 2001
Fund for promoting superior strains and seeds	2002	Financial appropriations	MOF Circulars Cai Nong No. 16 and No. 17 of 2004
Subsidy for purchasing agricultural machinery and tools	1999	Financial appropriations	MOF Circular Cai Nong No. 11 of 2005
Comprehensive subsidies for agricultural inputs	2006	Financial appropriations	General Office of the State Council Circular Guo Ban Fa No. 16 of 2006
Direct subsidy to farmers	2004	Financial appropriations	State Council Circular Guo Fa No. 17 of 2004
Fund for agricultural comprehensive development	1988	Financial appropriations	MOF Decree No. 60
Fund for interest discount on loans for the purpose of agricultural water-saving irrigation	1997	Financial appropriations	MOF Circular Cai Nong No. 279 of 2005
Subsidy for national key construction projects on water and soil conservation	1983	Financial appropriations	MOF Circular Cai Nong Zi No. 402 of 1987
Subsidy for prevention and control of pests and disease in forestry	1980	Financial appropriations	MOF Circular Cai Nong No. 44 of 2005
Subsidy for grass seed sowing by airplanes	1984	Financial appropriations	MOF Circular Cai Nong No. 139 of 2004
Preferential tax policies for enterprises of grain and soil reserves	1999	Preferential tax treatment	MOF Circular Cai Shui Zi No. 198 of 1999

[19] WTO documents G/AG/N/CHN/24, 17 December 2012 and G/AG/N/CHN/27, 7 March 2014.
[20] WTO document G/AG/N/CHN/21, 13 October 2011.
[21] WTO document G/SCM/N/155/CHN and /SCM/N/186/CHN, 21 October 2011.

Description	Starting year	Form of subsidy	Legal background
Preferential tax policies for: (a) relief grain and disaster relief grain, (b) compensation grain for returning cultivated land to forests and to grassland, and (c) grain rations for migrants from the reservoir areas.	 1999 2001 1999	Preferential tax treatment	MOF Circular Cai Shui Zi No. 198 of 1999; SAT Circular Guo Shui Fa No. 131 of 2001

Source: WTO document G/SCM/N/155/CHN and /SCM/N/186/CHN, 21 October 2011.

4.23. Budgetary transfers to producers have continued to increase in China. Direct payments to farmers producing grains (rice, wheat and corn), introduced in 2004, are still in place. They are paid at a flat rate per unit of land planted. The payment is provided to the person who holds the contract rights to the land, not to the person who cultivates the land. In general, the rate is of RMB 10-15 per mu (i.e. 0.06 ha) but it may vary according to locality. The programme is administered at the provincial level, hence the amount of the subsidies could vary; the specific arrangements and procedures for granting the subsidies are formulated by the local provincial governments. Central Government funding for direct payments has increased each year up to 2007, but then stabilized at RMB 15.1 billion (US$2.3 billion) per year in 2007-2012.[22]

4.24. Subsidies have also been available to purchase inputs, improved crop strains, agricultural machinery, and tools.[23]

4.25. The centrally funded comprehensive subsidy on agricultural inputs was introduced in 2006 and by 2008 had become one of the most important single budgetary transfers supporting agriculture. Budgetary transfers for this programme more than doubled in 2008 and have increased each year since to reach RMB 107.8 billion by 2012.[24] The objective of this support programme is to compensate grain producers for any increase in the price of agricultural inputs such as fertilizer and diesel fuels; however, it is implemented as a payment per unit of land[25], it is not linked to the cost of production. According to the authorities the provincial governments formulate the specifics of the subsidy according to local conditions; there is no general rule regarding its application.

4.26. The New Variety Extension Payment scheme, which was introduced in 2002 to improve the quality of seeds and livestock, has been extended from its original coverage of wheat, rice, maize, and soya beans, to include: rapeseed and cotton in 2007; potatoes in 2009; and highland barley in 2010 and, on a trial basis, peanuts. Livestock covered by the scheme include pigs, dairy cows, beef cattle, sheep and yak. In addition to increasing the product coverage, the scheme has been extended to cover larger areas, with all land sown with rice covered from 2008, and all land sown with wheat, maize, and cotton covered from 2009, and substantial expansion of the eligible area for soya beans in 2008 and 2009. As a result, the cost of this programme tripled from RMB 6.7 billion in 2007 to RMB 20.4 billion in 2010 and then stabilized at RMB 22.0 billion in both 2011 and 2012. Initially, funds were distributed to designated seed companies which sold seeds at discounted prices. This system proved inefficient, and so the mechanism to implement the programme was changed in 2009; at present it varies according to commodity. For improved hybrid seeds of rice, maize and rapeseed, the Government gives cash directly to farmers on the basis of the cultivated area, and for improved seeds of wheat, soya beans and cotton, the provinces decide if the subsidy is granted as a direct payment or through a reduction in the price of seeds. In 2011 and 2012, the unit seed subsidy remained unchanged at RMB 10 per mu (i.e. 0.06 ha) for wheat, soya beans, maize, early indica rice, rapeseed,

[22] OECD (2013), Agricultural Policy Monitoring and Evaluation 2013, Paris.
[23] In "recent" years, Central Government funding for superior strains and seeds was on annual basis about RMB 20 billion annually. During 2010-2013, the Central Government annual subsidy for purchasing agricultural machinery and tools was RMB 15.5 billion, RMB 17.5 billion, RMB 21.5 billion and RMB 21.75 billion respectively; and annual comprehensive subsidies for agricultural inputs were respectively RMB 71.6 billion, RMB 83.5 billion, RMB 107.8 billion and RMB 107.8 billion (information provided by the Chinese authorities).
[24] OECD (2013), Agricultural Policy Monitoring and Evaluation 2013, Paris.
[25] WTO (2012), Trade Policy Review - China, Geneva.

potatoes and highland barley; and at RMB 15 per mu (i.e. 0.06 ha) for cotton, middle indica rice, late indica rice and Japonica rice.[26]

4.27. Purchases of agricultural machines and tools listed in the Catalogue of State Supported and Promoted Products or in the Catalogue of Provincially Supported and Promoted Products are subsidized at rates between 20% and 30% of the sale price. Qualified farmers (including herdsmen and fishermen), farm workers, and rural production entities engaged in agriculture can apply for a subsidy when purchasing these listed goods. The subsidy may vary from province to province but not within a province. In 2009, the scheme was extended to cover the whole country. In principle, in 2012 the subsidy covered 12 categories of machines and 46 subcategories at the maximum level of RMB 50,000 per single item. However, this may vary, as the local authorities are responsible for running the scheme and deciding what machines are covered pursuant to the Catalogue issued by the central government (i.e. Ministry of Agriculture and Ministry of Finance) and the level of the subsidy. The Catalogue is updated every 3 years and in 2013 it included 12 types of machines.[27] The cost of this subsidy, as the cost of other programmes, has continued to increase from RMB 2 billion in 2007 and RMB 15.5 billion in 2010 to RMB 21.75 billion in 2013.[28]

4.1.3.2.2 Price controls and marketing

4.28. The price of some commodities remains controlled and others are still considered "important reserve materials" and originally subject to price controls. The agricultural products considered key reserve materials are grain, cotton, edible vegetable oil (materials), sugar, silkworm cocoons, and chemical fertilizers. However, according to the authorities, their price has been liberalized and the Catalogue of Reserve Materials is being revised.

4.29. China has gradually liberalized most agricultural markets, but the Government still intervenes when deemed necessary. Some controls remain in place regarding the marketing of grains and tobacco. According to the authorities, at present the Government only intervenes in the tobacco market.

4.30. A minimum procurement price scheme remains in place for rice and wheat in major producing areas. Minimum prices for grains (rice and wheat) are set every year by the National Development and Reform Commission (NDRC) in consultation with the Ministry of Agriculture and other governmental institutions. During 2007-12, the minimum prices for rice and wheat were increased each year on the basis of the growing costs of agricultural production. If the "market" price goes below the established support level, the Government, through the state-owned company Sinograin, purchases grain. The Government holds auctions as required to ensure a stable supply of grains and to prevent the price from increasing. The minimum procurement price scheme for grains is linked with China's grain reserves as the minimum prices system is in place supposedly to ensure a stable supply of grains.

4.31. Grain reserves for corn, rice, soya beans and wheat are maintained by central and local authorities to ensure food security. According to the authorities, the purchase of the reserves is carried out by appointed enterprises at "market" prices. The reserves are managed according to the Regulations on National Grain Reserves. However, to manage reserves at the local level, the government at the provincial level will formulate its own administrative regulations based on the national regulation. According to the authorities, these reserves were not used during 2012 and 2013.

4.32. China's tobacco industry is still subject to a state monopoly, with strict controls over production, marketing, and trade of tobacco products. The purchase price of tobacco is set at the central level. On a yearly basis the NDRC and the State Tobacco Monopoly Bureau jointly formulate the purchase price of tobacco leaf based on production costs, demand and supply, and other factors.[29]

[26] OECD (2013), Agricultural Policy Monitoring and Evaluation 2013, Paris.
[27] Information provided by the Chinese authorities.
[28] WTO (2012), Trade Policy Review - China, Geneva; and OECD (2013), Agricultural Policy Monitoring and Evaluation 2013, Paris.
[29] Information provided by the authorities.

4.1.3.2.2.1 Other measures

4.33. In 2007 China introduced the subsidized agricultural insurance scheme. Under this programme, insurance premiums are subsidized by the central and local governments so that farmers pay only a balance of 20-30% of the premium. This programme has grown in importance in recent years and entails growing budgetary transfers.

4.34. In addition to the support granted to rural households to give them access to insurance, in recent years the People's Bank of China (PBC), through its "window guidance", has guided financial institutions to increase financial support to key sectors of the economy such as agriculture, rural areas, and farmers. The PBC has been taking additional measures to increase access to financial services in rural areas by promoting innovation of rural financial products and services. As a result, agriculture-related loans grew steadily in 2012. By the end of year, the outstanding balance of agriculture-related loans with financial institutions stood at RMB 17.62 trillion, accounting for 26.2% of the total loans, up 20.7% year on year. New agriculture-related loans in 2012 amounted to RMB 3 trillion, accounting for 33% of total new loans.[30]

4.35. The PBC, to further promote financial penetration in the rural areas and to encourage small rural financial institutions to lend more to agriculture, rural areas and farmers, has put in place several incentives. At present, the PBC applies differentiated reserve requirement ratios for major agro-linked financial institutions; it has also increased agriculture-related central bank lending, and guided the provision of agro-linked loans. For instance, the reserve requirement ratios for Rural Commercial Banks, Rural Cooperative Banks and Rural Credit Cooperatives (RCC) are respectively 2 percentage points, 5.5 percentage points and 6 percentage points lower than that for large commercial banks. The PBC also set benchmarks on new deposits granted for county-level legal person financial institutions. If these benchmarks are reached, the institutions can benefit from lower reserve requirement ratios and if the benchmarks are exceeded, the fiscal and taxation authorities implement policies to provide incremental rewards, give subsidies for key programmes, and restructure and write off non-performing agro-linked loans.[31] In 2012, 43.3% of the county-level legal person financial institutions met the requirements for extending a certain proportion of new deposits to local loans and thus were awarded a total of RMB 30 billion of central bank lending.[32]

4.36. The Agricultural Development Bank of China (ADBC), established as a policy bank to support the agricultural sector and related industries, has played a key role in this effort to expand financial services to the rural areas. As a result, instruments used by the ADBC to provide funds and the range of projects financed by the ADBC have expanded. For instance, at present the ADBC grants credit to finance the whole agro-industrial chain including harvesting, storage, processing and distribution of grain, cotton and oil, as well as for the construction of agricultural and rural infrastructure focusing on irrigation projects and new rural areas. According to the PBC, branches of the ADBC at the county level that issue large agro-linked loans benefit from a reserve requirement ratio two percentage points lower than the ADBC as a whole.[33]

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[30] People's Bank of China (2013), Annual Report 2012. Viewed at: http://www.pbc.gov.cn/publish/english/4133/2013/20130829090453489508948/20130829090453489508948_.html.

[31] People's Bank of China (2013), Annual Report 2012, p. 39. Viewed at: http://www.pbc.gov.cn/publish/english/4133/2013/20130829090453489508948/20130829090453489508948_.html.

[32] For more details on these programmes please refer to: People's Bank of China (2013), Annual Report 2012. Viewed at: http://www.pbc.gov.cn/publish/english/4133/2013/20130829090453489508948/20130829090453489508948_.html.

[33] People's Bank of China (2013), Annual Report 2012, p.38. Viewed at: http://www.pbc.gov.cn/publish/english/4133/2013/20130829090453489508948/20130829090453489508948_.html.

4.2 Services

4.2.1 Telecommunication services

4.37. The trade regime of telecommunication services in China has been described in detail in previous TPR reports[34] and has remained largely unchanged. The most notable developments that have occurred since the last Report in 2012 are indicated below.

4.2.1.1 Market overview

4.38. The main economic characteristics of the telecommunication services sector are described in Box 4.2 below.

Box 4.2 Telecom services sector main economic indicators

Penetration rates (2012)
Total telephone subscribers (per 100 inhab.): 103.1% (1,390,308 million)
Mobile phone subscribers (% tot. tel. subscribers): 82.5% (1,112,155 million)
Internet users (per 100 inhab.): 42.1% (564 million)
Broadband Internet subscribers (per 100 inhab.): 13% (175,183 million)

Revenues (2012)
Total revenues of the sector: RMB 1,075.3 billion (+8.9%).
Revenues of telecommunication business other than voice telephony: RMB 525.1 billion (+15.6% to be compared with +17.8% the previous year)
Revenues of data and Internet business: RMB 265.6 billion (+29%)

Main actors
Number of companies providing value-added telecom services (2012): 20,815

Names and market shares of the leading companies for fixed-telecom services (2012):
China Telecom: 60.6%; China Mobile: 6.3%; China Unicom: 33.1%

Names and market shares of the leading companies for mobile telephone services (2011):
China Telecom: 13.3%; China Mobile: 65.1%; China Unicom: 21.6%

Names and market shares of broadband Internet services (2011): China Telecom: 57.6%; China Mobile: 6%; China Unicom: 36.4%

Foreign-ownership participation in telecom companies:
- in the basic telecom sector, the proportions of foreign ownership participation by June 2013 in China Telecom, China Mobile and China Unicom are respectively 19.53%, 25.92% and 23.72%;
- in the value-added telecom sector, 34 joint ventures have so far obtained telecom service licences, among which the proportion of foreign ownership participation ranges from 20% to 50%. Foreign investments are mainly from Hong Kong, China; the United States; Europe (Ireland and Finland), etc.

State ownership: the proportions of state-ownership participation by June 2013 in China Telecom, China Mobile and China Unicom were respectively 70.89 %, 74.08% and 63.6%

Source: Information provided by the Chinese authorities.

4.2.1.2 Regulatory regime

4.39. The main regulatory changes that have occurred for the telecommunications subsector since the last TPR Report concern fixed interconnection regimes, number portability, spectrum management, licensing, universal services and preferential policies.

4.2.1.2.1 Fixed interconnection regime

4.40. Currently, China's Internet backbone networks achieve interconnection through backbone direct contact points and Internet exchange centres (IXP/NAP) located in Beijing, Shanghai and

[34] Notably in 2012 (WT/TPR/S/264/Rev.1, paragraphs 165 to 204, pages 137 to 145), 2010 (WT/TPR/S/230/Rev.1, paragraphs 83 to 98, pages 88 to 91) and 2008 (WT/TPR/S/199/Rev.1, paragraphs 218 to 232, pages 161 to 166).

Guangzhou. The Ministry of Industry and Information Technology (MIIT) plans to optimize the structure of Internet interconnection and to create more Internet backbone direct contact points. Seven Internet backbone direct contact points are to be added in 2014. Meanwhile, the interconnection bandwidth will be expanded. By the end of 2013, the total bandwidth of Internet interconnection across the country was 1,652 Gbps, and it is expected to reach 2,152 Gbps by further expanding by 500 Gbps in 2014.

4.2.1.2.2 Number portability

4.41. Since November 2010, the MIIT has been carrying out successful mobile number portability tests in Tianjin municipality and Hainan province on 83,000 users. The scope of the test will be enlarged in 2014.

4.2.1.2.3 Spectrum management

4.42. In 2013, the MIIT promulgated plans for a point-to-point wireless access system for fixed business in the 40-50 GHz frequency bands and for a bandwidth wireless access system for mobile business in the 40-50 GHz frequency bands. The detailed criteria used for the allocation of radio frequencies are determined by the Regulations of the People's Republic of China on the Radio Frequency Allocation, the latest version being promulgated on 28 November 2013 as Decree No. 26 of the Ministry of Industry and Information Technology, effective 1 February 2014. These Regulations also cover R&D, production, import, sale, testing and the set-up of radio equipment in the People's Republic of China (excluding Hong Kong, China; Macao, China; and Chinese Taipei). LTE/4G licences have been allocated in 2014 following these criteria to three national mobile operators: China Telecom, China Mobile and Unicom.

4.2.1.2.4 Licensing

4.43. By end 2012, four enterprises (China Telecom, China Mobile, China Unicom, and CITIC) had obtained licences for basic telecommunication business and 26,979 companies had obtained licences for value-added telecommunication business.

4.2.1.2.5 Universal service

4.44. In order to narrow the digital gap between urban and rural areas and gradually develop information communication in rural areas of China, since 2004 the telecom ordinance has required three basic telecommunication companies (China Telecom Corporation Limited, China Mobile Communications Corporation and China United Telecommunications Co. Ltd.) to provide universal telecom services to remote rural areas and villages. By the end of 2013, telephony and broadband covered all the towns in China's rural areas, telephony was available in most administrative villages, and broadband in 91% of administrative villages. The next step is to expand broadband to 95% of administrative villages by the end of 2015. The State provides the three operators with a total annual subsidy of US$50 million to offset part of the costs incurred.

4.2.1.2.6 Preferential policies

4.45. Since the conclusion of the Closer Economic Partnership Agreements (CEPA9 and CEPA10) with Hong Kong, China and Macao, China and the Economic Co-operation Framework Agreement (ECFA) with Chinese Taipei, China has adopted the following additional preferential policies in the telecommunications sector:

- in accordance with CEPA, with respect to the offshore call centre business, Hong Kong, China/Macao, China service providers are permitted to set up wholly foreign-owned companies or joint ventures in Dongguan and Zhuhai, Guangdong Province, in which the capital stock held by Hong Kong, China/Macao, China investors is not subject to restrictions; with respect to the online data and transaction processing business (limited to operational e-commerce websites), Hong Kong, China/Macao, China service providers are permitted to set up joint ventures in Guangdong, in which the proportion of capital stock held by Hong Kong, China/Macao, China investors shall not exceed 55%;
- in accordance with ECFA (signed but not entered into force) and in addition to the sectors already opened up for WTO, China has opened up the internet access service business

and the call centre business to Chinese Taipei investors, provided that the proportion of stock held by Chinese Taipei investors does not exceed 50%. In addition, with respect to the online data and transaction processing business (only limited to operational e-commerce websites), Chinese Taipei service providers may set up wholly foreign-owned companies or joint-ventures in Fuzhou, Fujian, in which the stock held by Chinese Taipei investors is not subject to restrictions.

4.2.1.2.7 Experimental liberalization in the China (Shanghai) Pilot Free Trade Zone

4.46. All but one (Internet data centre) of the eight value-added telecommunication services categories have been liberalized as of March 2014 in the context of the China (Shanghai) Pilot Free Trade Zone (CSPFTZ), under the following conditions:

- for domestic multiplayer telecommunications services, storage and forwarding business, call centres, Internet access services and the appstores segment of information services, wholly foreign-owned companies are now allowed;
- for online data processing and transaction processing, the maximum foreign participation is raised to 55% except for the e-commerce segment (previously closed to foreign investment) where it is raised to 50%; IP and VPN business as well as information services other than appstores are also subject to a threshold of foreign ownership raised to 50%;
- companies established in the CSPFTZ will be allowed to provide their services from the FTZ to the entire territory of China except for Internet access services whose geographical scope will be limited to the CSPFTZ.

4.47. This additional liberalization has to be compared to China's WTO commitments where only three of the eight value-added telecommunications services (electronic data interchange, storage and forwarding and information services) were bound and at the level of maximum foreign ownership of 30%.

4.2.2 Financial services

4.48. The financial services regime in China has been described in detail in previous Trade Policy Review (TPR) reports, notably in 2012, 2010 and 2008[35] and has remained largely unchanged. The most notable developments that have occurred since the last report in 2012 are indicated below.

4.2.2.1 Market overview

4.49. The main economic characteristics of the financial services sector are described in Box 4.3 and Table 4.6 below.

Box 4.3 Financial services: statistical overview

General
Share of financial services in the GDP: 2009: 5.2%; 2012: 5.5% (provisional calculation)
Employment in banks and financial institutions; 2009: 2.844 million; 2012: 3.362 million Employment in the securities and futures sector: 2013: 0.288 million Employment in the insurance sector: 2010: 4.468 million, April 2013: 3.538 million
Financial services exports: 2010: US$1.331 billion; 2011: US$849 billion; 2013 (first three quarters): US$1.942 billion Financial services imports: 2010: US$1.387 billion; 2011: US$747 billion; 2013 (first three quarters): US$2.236 billion
Significance of the financial services arm of China Post: 39,000 business outlets, with 28,000 outlets at or below county level and 9,000 outlets scattered in the urban communities all over the country, total value of assets: RMB 4.9 trillion
Banking services
Number of banks - in 2010, there were 3,769 banking financial institutions, of which 40 were foreign-legal person institutions;

[35] See WT/TPR/S/264/Rev.1, paragraphs 96 to 164, pages 121 to 137, WT/TPR/S/230/Rev.1, paragraphs 47 to 82, pages 79 to 87 and WT/TPR/S/199/Rev.1, paragraphs 125 to 217, pages 136 to 161.

90 were branches of foreign banks;
- in 2012, there were 3,747 banking financial institutions, of which 42 were foreign-legal person institutions; 95 were branches of foreign banks.
Presence of foreign banking institutions: By the end of April 2013, banks from 15 countries and regions had set up 38 wholly foreign-funded banks (with 271 branches), 2 joint-venture banks (with 3 branches) and 1 wholly foreign-funded financial company in China; 72 foreign banks from 25 countries and regions had set up 93 branches in China, and 163 banks from 45 countries and regions had set up 188 representative offices in China. By the end of 2012, 32 Chinese banks had brought in 42 foreign strategic investors.
Share of assets by types of bank: (total assets of the banking system excluding non-bank financial institutions, i.e. consumer finance, 2012)
- five major state-owned nationwide banks: 55.2%; joint-stock commercial banks: 23.5%; city commercial banks: 12.35%; rural commercial banks and village banks: 6.85% of total assets. Foreign-invested banks i.e. wholly-owned foreign banks, joint-venture banks and foreign branches: 2.13%.

Concentration/share of the various types of banks in the total balance sheet for banks
- top 5 banks: 55.2% of total assets (2012);
- total assets (including non-bank financial institutions): RMB 133,622 trillion, of which foreign banks: 2.380 trillion RMB (i.e. 1.78%).

Lending activities: RMB 67.2875 trillion (2012) of which domestic loans: RMB 65.921 trillion (98%), foreign loans: RMB 13.665 trillion (2%).

Source: Information provided by the Chinese authorities and WTO-UNCTAD-ITC Trade in Services Statistics Database.

Table 4.6 Number of legal entities and assets held by various types of banks operating in China, 2012

Type of institutions	Number of legal entities	Total value of assets (100 million RMB)
Total number of policy banks and the State Development Bank	3	112,174
Large-scale commercial banks	5	600,401
Joint-stock commercial banks	12	235,271
City commercial banks	144	123,469
Rural commercial banks	337	62,751
Rural cooperation banks	147	12,835
Rural credit cooperatives	1,927	79,535
Non-banking financial institutions	262	32,299
Foreign-funded financial institutions	42	23,804
New-type rural financial and postal saving banks	864	53,511
Asset management companies	4	..
Total	3,747	1,336,050

.. Not available.

Source: Information provided by the Chinese authorities.

4.50. Box 4.4 describes the main indicators of the insurance, pension fund and securities sectors in China.

Box 4.4 Insurance, pension funds and securities: statistical overview

Insurance
Number of insurance companies 2010: 115 companies of which life: 60 (of which foreign insurance companies: 25); non-life: 56 (of which foreign insurance companies: 20); reinsurance: 9; captives: 0 Up to April 2013: 140 companies of which life: 68 (of which 26 foreign insurance companies) Non-life: 63 (of which 21 foreign insurance companies); reinsurance: 9; captives: 0
Premiums (2012, RMB billion): property insurance: 533.092; life insurance: 890.805; health insurance: 86.276; life accident insurance: 38.618 Share of worldwide life premiums (2012): 5% Share of worldwide non-life premiums (2012): 5% Insurance density (premiums per capita in US$, 2012): 178.9 (of which life: 102.9, non-life: 76) Insurance penetration premiums (as % of GDP in 2012): 2.96% (of which life: 1.7%, non-life: 1.26%) Distribution of total balance sheet by subsector: life insurance: 84.17%; non-life: 13.45%; reinsurance: 2.38%
Concentration: (cumulative market share of the top 5 companies): life insurance: 70.16%; non-life: 74.69%; reinsurance: not available
Pension funds
Number of firms providing commercial pension fund services (2012): 68 Total assets: 2010: RMB 121.5 billion; 2012: RMB 131.9 billion
Stock exchange and securities
Capitalization of the companies listed 2010: RMB 26.542 trillion i.e. 66.11% of GDP 2012: RMB 23.035 trillion i.e. 44.36% of GDP Value of exchange market bonds under custody (billion RMB): 2010: 687.83; 2012: 1,245.563

Source: Information provided by the Chinese authorities and 2012 Sigma 400 Swiss Re report.

4.2.2.2 Regulatory regime

4.2.2.2.1 Recent regulatory changes in the banking sector

4.51. The main regulatory changes that have occurred in the banking subsector since the last TPR Report concern prudential regulations, anti-money-laundering measures, bank deposits insurance scheme, liberalization of interest rates and support and promotion policies.

4.2.2.2.1.1 Prudential regulations and measures taken to tackle systemic risks

4.52. Numerous measures have been taken in recent years to address the question of non-performing loans. Back in 1999, following the Asian financial crisis, and in order to mitigate financial risks, improve the competitiveness of commercial banks and promote reforms of state-owned enterprises, the Ministry of Finance implemented a decision of the State Council, establishing four asset management companies (Huarong, Great Wall, Orient and Cinda). These companies are responsible for accepting, managing and disposing non-performing assets of state-owned banks and have the status of policy banks. They initially acted as defeasance structures (policy stripping) by acquiring RMB 1.4 trillion of non-performing loans from policy banks and state-owned commercial banks. Between 2004 and 2008, they acquired an additional RMB 800 billion of non-performing loans from the state-owned commercial banks.

4.53. Between 2009 and 2010, these asset-management companies acquired a small number of non-performing loans from the five major commercial banks. Two of these asset management companies, the China Huarong Asset Management Co. Ltd, and the China Cinda Asset Management Co. Ltd, established modern corporate governance structures in accordance with applicable requirements under the Company Law, with the latter being listed on the Hong Kong Exchanges and Clearing on 12 December 2013 and having introduced four strategic investors, namely Standard Chartered, UBS, Social Insurance Fund and CITIC Capital in its shareholding. Both companies are state-holding joint-stock companies. The China Orient Asset Management Corp. and the China Great Wall Asset Management Corp., although financial enterprises solely funded by the State at present, have also begun their commercial transformation.

4.54. As from 2009 and 2010, the four companies changed policy, became commercially-oriented, thus ceasing to act as defeasance structures, and started buying only limited numbers of non-performing loans in small batches from commercial banks. According to the authorities, the four companies have so far basically completed the disposal of the policy-based non-performing loans through a variety of measures such as debt restructuring and transfer, debt-to-equity swap, lawsuit withdrawal and securitization. The disposal of the non-performing loans of commercial banks includes cash recovery, payment for debt with in-kind assets, clearance of bad debts as well as debt restructuring and transfer. Table 4.7 indicates the number of non-performing loans in recent years, including those held by commercial banks.

Table 4.7 Non-performing loans, 2007-11

	2007	2008	2009	2010	2011
Gross non-performing loan stock (RMB billion)	..	..	..	1,240	1,050
Of which non-performing loan stock of commercial banks	1,200	560.3	497.3	433.6	427.6

.. Not available.

Source: China Banking Regulatory Commission Annual Report.

4.55. The China Banking Regulatory Commission is in the process of identifying and defining regulatory policies for shadow banking, and pays close attention to its development, problems and risks. It considers that it is at an early stage of development, relatively small in scale and with controllable risks, but nonetheless still needs to be further regulated and standardized in order to effectively manage the risks. The measures under consideration in that respect include: first, further defining the division of responsibilities and clarifying the supervision and management responsibilities of all types of entities; second, defining supervision and segregation measures so as to promote standardized development of all types of institutions and businesses; third, investigating the potential risks; and fourth, educating public opinion and consumers.

4.56. With regard to the prevention of potential real estate bubbles, a regional housing credit policy adjustment mechanism was established in 2011 to take into account the local characteristics of the real estate market. The local branches of the People's Bank of China may further raise the proportion of initial payment and the interest rate of loans for the second house purchased, based on price control objectives and policy requirements for newly-established residential houses in cities where newly-built commercial residential housing prices rise too quickly. Since 2013, local branches of the People's Bank of China have raised the minimum proportion of initial payment from 60 to 70% of the loan for a second residential house in 13 cities such as Beijing, Shanghai, Guangzhou and Shenzhen and implemented differentiated residential housing loan policies in their respective jurisdictions based on the real estate control objectives and policies stipulated by local governments.

4.57. According to the Chinese authorities, in 2012 the growth rates of the loan balance in the real estate sector nationwide recovered slightly, the loan quality remained steady, and the non-performing ratios of both development loans and individual loans were lower than the overall non-performing loan rate of commercial banks. However, from a dynamic perspective, default risks for real estate loans must still be assessed in the future since real estate loans are a form of medium- and long-term credit, most of the development loans are as yet not due and the accumulated repayment period for about 70% of the individual loans has not yet reached 4 years.

4.58. Local governments' financing platforms are defined by the "Circular of the State Council on the Issues Concerning Strengthened Management of the Financing Platform by the Local Government" (Guo Fa [2010] No. 19), as an economic entity with an independent legal personality which is established by the local government and its departments and organs, by means of budgetary allocation or asset injection, such as land and stock ownership and assuming the role of financing for the government investment project.

4.59. The China Banking Regulatory Commission (CBRC) actively monitors and controls those platforms by implementing a policy based on four principles: control of the total amount, classified management, differentiated treatment and gradual dissolution. It focuses its actions on controlling overall quantity, optimizing structure, insulating risks and identifying responsibilities, and promoting the disposal of loans by financing platforms.

4.60. Regarding recent measures taken to ensure compliance with the Basel Committee's Core Principles for effective banking supervision, the CBRC issued in June 2012 the "Measures on Capital Management of Commercial Banks". Those measures entered into force on 1 January 2013 on a trial basis. Since then, China has basically completed the establishment of new standards on capital regulation which:

- establish a unified system of capital adequacy ratio supervision by defining regulatory capital requirements under the four tiers prescribed by the Basel III principles (minimum capital requirements/reserve countercyclical capital/additional capital requirements for systematically important banks/additional requirements under the second pillar). In normal conditions, the capital adequacy ratios for systemically important banks and non-systemically important banks are 11.5% and 10.5%, respectively;
- define the qualification standards for all kinds of capital instruments, and increase the loss absorption capacity of capital instruments;
- expand the risk scope of capital coverage, besides credit risks and market risks, to incorporate operational risks into the capital supervision framework. The new standards also define the capital regulations for such complex trading business as asset securitization and OTC derivatives;
- classify banks and risks for the purpose of differential regulation: the new standards classify the commercial banks into four types, based on capital adequacy ratio, and apply corresponding supervision measures to each type of bank to increase the effectiveness of capital constraints. Meanwhile, the new standards redesign the risk weightings of each type of asset in accordance with the principle of prudence. They adjust the risk weightings of small and micro-business loans and personal loans in order to induce commercial banks to issue such loans, and thus promote the real economy more effectively. The new standards moderately increase the inter-bank risk weighting of commercial banks;
- implement a transition period during which the capital adequacy ratio can reach the relevant standards: commercial banks are required to meet the new supervision requirements by end 2018, and qualified banks are encouraged to reach the standard in advance. In the latest list published by the Financial Stability Board (FSB) in November 2012, the Bank of China is one of the global systemically important banks.

4.61. Regarding the measures taken to prevent money laundering, the People's Bank of China has established and is refining an anti-money laundering and anti-terrorism-financing regulatory and monitoring system based on the 40+9 recommendations made by the Financial Action Task Force (FATF) to encourage financial institutions and specific non-financial institutions to enhance internal money-laundering controls. In accordance with the "International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation" published by the FATF in 2012, the People's Bank of China has begun to further improve the relevant rules and taken the following measures:

- the Measures on Administration of Anti-Money Laundering and Anti-Terrorist Financing for Payment Institutions (Yin Fa [2012] No. 54), announced by the People's Bank of China in March 2012, establish a basic framework of anti-money laundering supervision for payment institutions and determine the anti-money laundering obligations of non-financial institutions engaging in payment business;
- the Circular on Freezing the Personal Assets of Terrorists (Yin Fa [2012] No. 100), announced by the People's Bank of China in April 2012, requires that the financial institutions take anti-money laundering measures against terrorists recognized by the Ministry of Public Security by freezing their assets, and strengthens the reporting of suspicious transactions;
- the Circular on Strengthening the Financial Practitioners' Obligation of Anti-Money Laundering and Enhancing Internal Control of Relevant Anti-Money Laundering (Yin Fa [2012] No. 178), announced by the People's Bank of China in July 2012, requires that financial institutions follow the principle of comprehensive risk management. It establishes an anti-money laundering internal control system and especially ensures that through systematic measures, senior management and staff in business departments perform their duties and prevent the risk of money laundering;
- the Circular on Strengthening Anti-Money Laundering in Cross-Border Remittances (Yin Fa [2012] No. 199), announced by the People's Bank of China in August 2012, updates the anti-money-laundering regulations applicable to the telegraphic transfer service by imposing a series of requirements on financial institutions in accordance with

Article 16 of the new FATF40 Proposal on Anti-Money Laundering and Anti-Terrorism Financing;

- the Circular on Strengthening Anti-Money Laundering in Cross Border Business Cooperation in Financial Institutions *(*Yin Fa [2012] No. 201), announced by the People's Bank of China in August 2012, further strengthens the anti-money laundering supervision requirements for cross-border business by prohibiting financial institutions from establishing agency relationships with shell financial institutions. In addition, financial institutions must ensure strict due diligence and risk assessment on overseas financial partners, take strict anti-money laundering risk management measures on overseas partners with high risks, apply the most strict anti-money laundering compliance and risk control standards at the group level and strengthen internal audit to prevent risks;
- the Guidelines on Risk Assessment of Money Laundering and Terrorism Financing in Financial Institutions and Classified Management for Customers (Yin Fa [2013] No. 2), announced by the People's Bank of China in January 2013, are designed to guide financial institutions to conduct risk assessment on money laundering and terrorism financing in respect of customer, product, region and industry, and take corresponding anti-money-laundering measures.

4.62. In December 2013, the People's Bank of China, the CBRC, the China Securities Regulatory Commission (CSRC), the China Insurance Regulatory Commission (CIRC), and the MIIT jointly issued the "Circular on Preventing Bitcoin Risks" (Yin Fa [2013] No. 289), requiring bitcoin registration and trading organizations to perform such anti-money-laundering obligations as reporting suspected transactions with a view to preventing money-laundering and terrorist-financing risks. Meanwhile, the People's Bank of China has required various financial institutions to adopt enhanced measures of customer identification and transaction monitoring with a view to avoiding money-laundering and terrorism-financing activities involving bitcoins.

4.63. In January 2014, the People's Bank of China, the Ministry of Public Security and the Ministry of State Security jointly promulgated the "Administrative Measures on Freezing Assets Involving Terrorism Activities" (Order [2-14] No. 1 of the People's Bank of China, the Ministry of Public Security and the Ministry of State Security), explicitly specifying that financial institutions and specific non-financial institutions shall abide by the obligations of "discovering and immediately freezing" assets involving terrorism, managing and disposing of frozen assets and protecting the parties' legitimate rights and interests, as well as monitoring and inspecting.

4.2.2.2.1.2 Bank deposits insurance scheme

4.64. The People's Bank of China, through its relevant departments, is preparing draft deposit insurance regulations and the corresponding implementation plan, so as to accelerate and promote the establishment of the deposit and insurance system and prepare for the implementation system before its promulgation.

4.2.2.2.1.3 Allocation of credit and liberalization of interest rates

4.65. Following the listing of the Agricultural Bank of China in July 2010, all five major banks are now incorporated. By law, all banks should base their lending decisions purely on business considerations.

4.66. On 20 July 2013, the lending interest rate was liberalized by the Circular of the People's Bank of China on Further Implementation of Interest Liberalization. The centralized quotation and release mechanism of the prime loan rate was formally launched on 25 October 2013 to provide financial institutions with a reference for their loan pricing and to lay the foundation for a more liberalized interest rate formation mechanism.[36] On 8 June 2012, the upper limit of the floating range of the deposit rate was extended to 110% of the benchmark interest rate, while on 6 July 2012, the lower limit of the floating range of the loan rate was extended to 70% of the benchmark interest rate. Fees are determined by the banks themselves.

[36] For further elements on this reform, see the *Monetary Policy Implementation Report of China* at: http://www.pbc.gov.cn/publish/zhengcehuobisi/591/index.html.

4.2.2.2.1.4 Support and promotion policies

4.67. Several measures have been taken recently by the Chinese authorities to promote the development of the banking system in rural areas and smaller cities. First, the "Guiding Opinions on Financial Support for Economic Restructuring and Industry Transformation and Upgrade", issued by the State Council in July 2013 (Guo Ban Fa [2013] No. 67), encourage private capital to invest in commercial city banks, commercial rural banks and village banks. In addition, the CBRC has encouraged private enterprises and natural persons to participate in the property rights reform of rural cooperative financial institutions, the reconstruction of high-risk institutions and the establishment of village banks by removing geographical restrictions for private capital to invest in small and medium financial institutions in the countryside, and by raising the shareholding ratio of an individual person from 2% to 5%, with a special increase in the shareholding ratio of an individual person in a village bank to 10%. The CBRC Suggestions on Encouraging and Guiding Private Capital to Enter the Domestic Banking Industry (Yin Jian Fa [2012] No. 27) of May 2012, designed to implement "Several Viewpoints on Encouraging and Guiding the Investment of Private Capital for Its Healthy Development" (Guo Ban Fa [2010] No. 13), allow the shareholding ratio of a single enterprise and its affiliated parties that have merged and reorganized high-risk rural credit cooperatives to exceed 20%, and reduce the shareholding ratio of the major originating village bank from 20% to 15%.

4.2.2.2.2 Recent regulatory changes in the insurance sector

4.68. The main regulatory changes that have taken place in the insurance sector since the last TPR Report concern market access in one subsector and general licensing. Regarding market access, on 30 March 2012 a decision of the State Council allowed foreign-funded non-life insurance companies to provide compulsory traffic accident liability insurance. This decision became effective on 1 May 2012.

4.69. Regarding licensing, in May 2013 the China Insurance Regulatory Commission formulated the Measures for the Classified Administration of Business Scope for Insurance Companies, setting up detailed qualification requirements and procedures. These regulations stipulate that new entrants, be they national or foreign, can provide only so-called "basic insurance services" subject to these requirements. An insurance company may apply for so-called "extended services" only after it has obtained qualification for the first three basic services, provided that each application may not increase more than one type of service and that the interval between two applications shall be no less than six months and subject to additional qualification requirements depending on the type of insurance activity concerned. These requirements and the procedures applying to them are described in detail in Table A4.1.

4.2.2.2.3 Recent regulatory changes in the securities and stock exchange sectors

4.70. The main regulatory developments in the securities and stock exchange sector concern: market access for foreign-capital firms entering the Chinese market, the pilot programme on fund management companies established by commercial banks, the regulation of asset management companies, the business scope of securities companies, trading in futures, preferential policies, the Qualified Foreign Institutional Investors (QFII) regime, and the RMB qualified foreign institutional investors (RQFII) regime.

4.71. First, on market access for foreign-capital firms entering the Chinese market, foreign equity ceilings have been raised from 33% to 49% for joint-venture securities firms and for securities investment fund management firms by an amendment to the "Measures for the Administration of Securities Investment Fund Management Companies", by Decree of the China Securities Regulatory Commission No. 84 on 20 September 2012, effective 1 November 2012, and by the Decision on Amending the "Rules on Establishment of Foreign-invested Securities Companies" of 11 October 2012, which came into effect on the date of promulgation.

4.72. Secondly, the Pilot Programme on Fund Management Companies established by commercial banks, which was initiated in 2005, is currently being enlarged. So far, 10 commercial banks have established fund management companies.

4.73. Thirdly, regarding the regulation of asset management companies, the "Measures for the Administration of Securities Investment Fund Management Companies", which regulate the establishment of domestically-owned and Sino-foreign joint-venture asset management companies, were amended in November 2012 to cancel the eligibility requirement for shareholders whose shares do not exceed 5%. The change for shareholders whose shares are less than 5% is now subject to *ex post* filing requirements rather than prior approval.

4.74. Fourth, regarding the business scope of securities companies, on 16 November 2012, the CSRC amended the "Regulations on the Investment Scope for the Proprietary Trading of Securities Companies and Related Matters", by allowing proprietary trading provided that securities companies shall not provide financing and guarantees to subsidiaries. The new regulations extend the investment scope of these companies by adding new varieties of securities investment products for proprietary trading: securities which have been listed in the National SME Share Transfer System for transfer; private placement bonds which have been or may be legally listed on a regional equity trading market in compliance with the relevant provisions, and stocks which have been listed on a regional equity trading market in compliance with the relevant provisions for transfer.

4.75. In addition, regulatory policies on securities companies' investment in financial derivatives have been further clarified: securities companies qualified to engage in proprietary trading may conduct trading of financial derivatives; securities companies not qualified to engage in proprietary trading can engage in the trading of financial derivatives only for risk-hedging purposes.

4.76. Fifth, regarding trading in futures, the "Regulations on the Administration of Futures Trading" were amended on 24 October 2012 so as to allow foreign institutions conforming to requirements to participate in specific futures trading. Crude oil will be the first of these trading areas to be opened up. The other types of trades that will be allowed have not yet been determined. The China Securities Regulatory Commission (CSRC) is presently studying and preparing the relevant measures. Qualified foreign institutional investors may participate in stock index futures trading, while other foreign entities or individuals may not.

4.77. Concerning preferential policies, in April 2013 the China Securities Depository and Clearing Corporation amended the "Management Rules for Securities Accounts" and the "Business Guide", and defined more precisely the eligibility requirements applicable to residents of Hong Kong, China; Macao, China; and Chinese Taipei working and living on the Chinese mainland for opening a class A share account (i.e. denominated in RMB and traded in China). Residents from Hong Kong, China; Macao, China; and Chinese Taipei working and living on the Chinese mainland can open a class A share accounts to invest in the A share market.

4.78. The Qualified Foreign Institutional Investors (QFII) regime has been extensively amended by the "Notice on the Relevant Issues Concerning the Measures for the Administration of Securities Investment within the Territory of China by Qualified Foreign Institutional Investors" (CSRC Notice [2012] No. 17) issued by the CSRC in July 2012 so as to relax the requirements on Qualified Foreign Institutional Investors (QFII) and facilitate investment operations. The main provisions of that regulation are the following:

- the trial period of asset management is reduced from five to two years; the trial period of establishment for insurance companies and other institutional investors is also reduced from five to two years; the trial period of experience in the securities business for securities firms is reduced from 30 to five years, and the trial period of experience in the banking business for banks is reduced to 10 years;
- requirements relating to minimum assets held or managed during the previous accounting year have been reduced respectively from US$5 billion for asset management institutions, insurance companies and other institutional investors to US$500 million, and for securities companies and commercial from US$10 billion to US$5 billion;
- the net asset of securities companies shall be no less than US$500 million while the tier 1 capital of commercial banks shall be no less than US$300 million;
- the limitation on total class A shares held by all foreign investors in any single listed company and the proportion of such shares in the total shares of listed companies is raised from 20% to 30%;
- restrictions on the number of capital accounts held by QFII clients have been abolished.

4.79. In addition, in December 2012 the State Administration of Foreign Exchange (SAFE) issued the amended Announcement on the Promulgation of the Interim Provisions on Foreign Exchange Administration of Domestic Securities Investment by Qualified Foreign Institutional Investors (SAFE Announcement [2009] No. 1, amended on the basis of SAFE Announcement [2012] No. 2), which relaxes the ceiling on investment quotas and the restrictions on fund remittances in and out of China. Foreign institutions are still required to obtain approval from CSRC to become QFIIs and apply to SAFE for investment quotas. In particular:

- the investment quota available to institutions such as sovereign funds, central banks and monetary authorities may exceed an amount equivalent to US$1 billion;
- QFIIs may transfer the principal and income on investments out of China in instalments after the end of the lock-up period of the investment principal: provided that the sum of the capital transferred out of China per month (including both principal and income) does not exceed 20% of their total domestic assets at the end of the previous year. The capital of Chinese open-ended funds may be remitted into or out of China by custody banks for QFIIs on a weekly basis based on the purchased or redeemed net amount, provided that the capital transferred out of China per month shall not exceed 20% of total domestic assets at the end of the previous year.

4.80. At end April 2013, 198 approved QFIIs with domestic securities accounted for a cumulative investment of US$41,882 billion.

4.81. Finally, regarding the RMB Qualified Foreign Institutional Investors (RQFII) regime, following its launch in 2011, the total RQFII quota was raised several times and stood at RMB 270 billion at end April 2013. By the same date, 34 RQFIIs had been approved with a total investment amounting to RMB 76.3 billion.

4.82. In March 2013, the CSRC, the People's Bank of China and the SAFE jointly issued the amended Measures for the Pilot Programme of Securities Investment in China by RMB Qualified Foreign Institutional Investors (CSRC, People's Bank of China and SAFE Order 90) and the CSRC issued the Provisions on Implementing the Measures for the Pilot Programme of Securities Investment in China by RMB Qualified Foreign Institutional Investors (CSRC Announcement [2013] No. 14). The main provisions of these regulations are the following:

- domestic fund management companies, securities companies, commercial banks and insurance companies or financial institutions with their registered office or principal seat of operations in Hong Kong, China may participate in the pilot programme for RMB qualified foreign institutional investors (RQFII) as of 1 March 2013;
- participating institutions shall obtain the qualification to conduct the asset-management business from the Hong Kong Securities and Futures Commission (HK SFC) and must have preliminary experience in the asset-management business;
- participating institutions are still required to obtain approval from the CSRC to become RQFIIs and apply to SAFE for investment quotas;
- RQFIIs may invest in stocks, bonds and warrants traded and transferred in stock exchanges, products with fixed income traded in inter-bank bond markets, securities investment capital, stock index futures and other products and may participate in new share issues, convertible bond issues, additional share issues and purchases of allotted shares. Since March 2013, RQFIIs may participate in stock index futures trading;
- RQFIIs are no longer subject to investment limitations according to which "the investment in stocks shall not exceed 20% and the investment in products with fixed income shall not exceed 80%" and may determine the types of products at their own discretion;
- the investment quota of open-ended funds sponsored and established by RQFIIs are subject to balance control by the SAFE, and the cumulative net inward RMB remittances of open-ended funds shall not exceed the approved investment quotas. Except for open-ended funds, other products or investment quotas of RQFIIs shall be subject to control based on the actual amount involved, so as to ensure that the cumulative inward remittances of funds shall not exceed the investment quota approved by the SAFE.

4.83. Where RQFIIs sponsor and establish open-ended funds, the custodians may go through the formalities to transfer RMB into and out of China or purchase and transfer the foreign currency out of China on a daily basis for and on their behalf. With regard to products and funds other than open-ended funds, the custodians may transfer RMB capital out of China or purchase and transfer the foreign currency out of China on a monthly basis upon the expiry of the lock-up period of the principal. The custodians shall distinguish between the principal and income of the capital transferred out of China and shall not re-transfer principal that has been transferred out of China into China and shall decrease the investment quota accordingly. Where investment income is transferred out of China, audit reports issued by domestic accounting firms and relevant tax receipts shall be submitted to the custodians by the end of May 2013.

4.2.2.2.4 Experimental liberalization in the China (Shanghai) Pilot Free Trade Zone

4.84. The measures already implemented and planned for additional liberalization in the context of the China (Shanghai) Pilot Free Trade Zone are described above in section 2.5.4.

4.2.3 Architecture and construction services

4.2.3.1 Architectural services

4.85. The architectural market in China is undoubtedly one of the largest and most promising in terms of future growth. Numerous foreign architectural firms are present in China, notably in the form of wholly foreign-owned firms. However, individual foreign architects, who are also present in large numbers, can only work as consultants and, in the absence of mutual recognition agreements, may not currently become Chinese-registered architects nor sit the examination to become so. Box 4.5 below describes the main economic indicators for architectural services in China.

Box 4.5 Main economic indicators and regulatory framework of architectural services in China

STATISTICAL DATA **Practionners** Number of architects: 44,848 Architects/inhabitants ratio: 0.003% Number of architecture students: 32,000 Student architects ratio: 88.89%
Type of practice (in % of architects employed): Employment by public institutions: 80%; partnership: 5%; associations, limited-liability companies and unlimited-liability companies: 5%; university-based project offices: 5%

Source: Information provided by the Chinese authorities and the Union Internationale des Architectes (UIA). Viewed at: http://www.uia-architectes.org/en/exercer/exercer-dans-le-monde/commission-uia.

4.86. The regulatory regime applicable to the exercise of the architectural profession by foreigners is twofold: the MFN regime, which corresponds to the GATS commitments, themselves based on a standstill, and the preferential regime for Hong Kong, China; Macao, China; and Chinese Taipei (pending entry into force of the ECFA in the latter case).

4.87. As to the MFN regime, so far no foreign architects have been licensed to practise in China since direct exercise of the profession is reserved to Chinese nationals. The types of practice allowed for foreign architects are defined by China's commitments on architecture and are based on a standstill of the applied regime, namely under mode 1 without any limitations and other forms of cross-border practice through cooperation with Chinese professional organizations; under mode 3, wholly-owned foreign enterprises are allowed but on condition that foreign-service suppliers are registered architects/engineers or enterprises engaged in architectural/engineering/urban planning services in their home country; under mode 4, according to the horizontal conditions stipulated in the standstill-based Chinese commitments, i.e. three years for intra-corporate transferee managers, executives and specialists and three years or the duration of the contract, whichever is shorter, for non-intra-corporate transferee executive managers and specialists. In all instances, individual foreign architects have the simple status of assistants or consultants. They have no signing rights, nor may they exercise the associated responsibilities.

4.88. In terms of recognition policy, foreign architects would be allowed to participate in the national uniform examination to become a registered architect on the same footing as Chinese nationals if a mutual recognition agreement were signed with their countries of origin. So far, China has signed no such agreement.

4.89. Only applicants from Macao, China; Hong Kong, China; and Chinese Taipei[37] are allowed to sit this examination based on the unilateral recognition policy of mainland China (see details below under the Free Trade Agreements commitments section). A six-months-per-year residency requirement is applicable in theory to such registered architects but is not enforced.

4.90. The free trade agreements of China with Chile, New Zealand, Singapore, Pakistan and Peru contain commitments for architecture identical to the GATS commitments.

4.91. The CEPAs with Hong Kong, China; and Macao, China contain in their initial text and in their supplements n° II, V, VII , VIII, IX and X, a series of preferential provisions regarding construction services namely:

- to relax the following requirements under Article 15 of the Ministry of Construction Decree No. 114 "Regulations on Administration of Foreign-Invested Construction and Engineering Design Enterprises", namely, on the criteria for application for construction and engineering design company qualifications by a wholly foreign-owned construction and engineering design company set up by a Hong Kong, China/Macao, China service supplier on the mainland, the number of Hong Kong, China residents qualified as certified architects or certified engineers in China and the number of Hong Kong, China/Macao, China residents having the relevant design experience should not be less than one quarter of all certified professionals and key technical personnel required under the qualification grading criteria; on the criteria for application for construction and engineering design enterprise qualifications by an equity or contractual joint-venture construction and engineering-design enterprise set up by a Hong Kong, China/Macao, China service supplier on the mainland, the number of Hong Kong, China/Macao, China residents qualified as certified architects or certified engineers in China and the number of Hong Kong, China residents having the relevant design experience should not be less than one eighth of all certified professionals and key technical personnel required under the qualification grading criteria;
- relaxation of the mainland residential period requirement for Hong Kong, China/Macao, China professional and technical staff by counting their period of residence in Hong Kong, China/Macao, China as their period of residence on the mainland;
- when Hong Kong, China/Macao, China service suppliers set up construction and engineering design enterprises in the form of equity joint ventures or contractual joint ventures on the mainland, there is no restriction on the proportion of total capital contributed by the mainland partners to the registered capital;
- Hong Kong, China/Macao, China professionals who have obtained mainland class 1 registered architect qualifications or mainland class 1 registered structural engineer qualifications are allowed to act as partners to set up construction and engineering design offices on the mainland in accordance with the relevant qualification requirements. For the above enterprises, there is no restriction on the ratio between the Hong Kong, China/Macao, China partners and the mainland partners, on the ratio of total capital contributed by the Hong Kong, China partners to that by the mainland partners, and on the residential period on the mainland for the Hong Kong, China/Macao, China partners;
- Hong Kong, China/Macao, China professionals who have obtained by examination the mainland registered architect qualification, are allowed to register and practise in Guangdong Province regardless of whether they are registered practitioners in Hong Kong, China/Macao, China. They are recognized as registered practitioners for the purpose of engineering design enterprise qualifications within Guangdong Province, in accordance with the relevant mainland regulations;
- regarding elective courses for continuing education which mainland-registered architects have to attend, Hong Kong, China/Macao, China service suppliers are allowed to complete elective courses in Hong Kong, China/Macao, China or to be taught by mainland teachers

[37] In the case of Chinese Taipei, through the "Circular Concerning Relevant Issues on Permitting Chinese Taipei Residents to Obtain Qualifications of Certified Architects" promulgated by the former Ministry of Personnel, the Ministry of Construction and the Chinese Taipei Affairs Office of the State Council in 2006.

in Hong Kong, China/Macao, China. The arrangement for conducting elective courses for continuing education must be recognized by the mainland authorities;
- contractual service-providers employed by Hong Kong, China/Macao, China service suppliers are allowed to provide services under this sector or subsector on the mainland.

4.92. In the Cross-Strait Agreement on Trade in Services dated 21 June 2013 between the Association for Relations Across the Chinese Taipei Straits and the Straits Exchange Foundation, mainland China undertook commitments to open up Architectural services (CPC 8671), Engineering services (CPC 8672) and Integrated engineering services (CPC 8673) (Annex to the Agreement - List of Specific Commitments on Trade in Services) and "permits the natural persons who meet the relevant requirements and hold Chinese Taipei identity cards to attend the qualification exam of professional construction supervisory engineer".

4.2.3.2 Construction

4.93. The construction market in China is one of the largest in the world and has grown rapidly over the last 30 years, which has allowed the emergence of large domestic firms also present on export markets, as evidenced by the presence of 56 Chinese firms among the top 300 international contractors in 2013 (Table 4.8).

Table 4.8 Chinese construction companies within the top 300 international contractors, 2012 and 2013

(US$ million)

Rank 2013	Rank 2012	Firm	Location	Revenue
10	10	China Communications Construction Group Ltd.	Beijing	11,187.20
20	23	Sinohydro Group Ltd.	Beijing	5,473.10
24	22	China State Construction Eng'g Corp.	Beijing	4,987.80
25	24	China National Machinery Industry Corp.	Beijing	4,947.70
34	39	China Railway Group Ltd.	Beijing	3,799.60
43	46	CITIC Construction Co. Ltd.	Beijing	2,635.80
51	42	China Metallurgical Group Corp.	Beijing	2,295.70
53	30	China Railway Construction Corp. Ltd.	Beijing	2,147.00
54	53	SEPCOIII Electric Power Construction Corp.	Qingdao	2,098.90
56	62	China Gezhouba Group Co. Ltd.	Wuhan City	2,009.30
61	64	SEPCO Electric Power Construction Corp.	Jinan City	1,879.60
71	91	China Civil Engineering Constr. Corp.	Beijing	1,411.10
72	67	Shanghai Electric Group Co. Ltd.	Shanghai	1,406.70
81	89	China General Technology (Group) Holding Ltd.	Beijing	1,208.30
82	77	China National Chemical Engineering Group	Beijing	1,193.50
84	48	China Petroleum Eng'g & Construction Corp.	Beijing	1,165.60
86	92	China Int'l Water & Electric Corp. (CWE)	Beijing	1,083.60
89	93	CGC Overseas Construction Group Co. Ltd.	Beijing	1,016.80
91	114	Sinopec Engineering (Group) Co. Ltd.	Beijing	958.6
92	83	Dongfang Electric Corp.	Chengdu	926.3
95	104	Qingjian Group Co. Ltd.	Qingdao	880
96	86	Shanghai Construction Group	Shanghai	870.4
98	123	China Petroleum Pipeline Bureau (CPP)	Langfang City	811.9
110	127	China Geo-Engineering Corp.	Beijing	665.6
116	..	Sinopec Zhongyuan Petroleum Engineering Ltd.	Puyang	630.4
122	117	China Jiangsu Int'l Econ. And Technical Coop.	Nanjing	556
133	146	Beijing Construction Eng'g Group Co. Ltd.	Beijing	486.4
137	131	China Dalian Int'l Eco. & Techn. Cooperation Grp.	Dalian	469.8
138	..	XPCC Construction & Engineering (Group) Co.	Urumqi	458.1
147	151	China Henan Int'l Cooperation Group Co. Ltd.	Zhengzhou	419.1
149	..	Daqing Oilfield Construction Group Co. Ltd.	Daqing City	413
151	171	Anhui Construction Engineering Group Co. Ltd.	Hefei	407.2
152	166	Pan-China Construction Group Co. Ltd.	Beijing	399.2
155	..	China Petroleum Engineering Co. Ltd.	Beijing	394.2

Rank 2013	Rank 2012	Firm	Location	Revenue
157	159	China Jiangxi Corp. For Int'l Eco. & Tech. Coop.	Nanchang	392.3
161	155	China Zhongyuan Engineering Corp.	Beijing	377.7
162	..	China Aluminium International Engineering Co.	Beijing	377.6
164	184	Zhongmei Engineering Group Ltd.	Nanchang City	367.7
169	208	China Yunan Construction Eng'g Group Co. Ltd.	Kunming	350.7
172	164	China Wu Yi Co. Ltd.	Fuzhou	334.1
183	..	ZhongDing International Engineering Co.	Nanchang City	275.4
185	219	Sinosteel Equipment & Engineering Co. Ltd.	Beijing	271.3
186	169	China HuanQiu Contracting & Engineering Corp.	Beijing	264.5
195	209	Nantong Construction Group Joint-Stock Co.	Nantong	247.9
197	205	Jiangsu Nantong No. 3 Construction Grp. Co. Ltd.	Haimen	244.2
199	..	Jiangsu Zhongxin Const. Group Co. Ltd.	Qidong	240.3
205	195	Zhejiang Constr. Investment Group Co. Ltd.	Hangzhou	233.5
209	225	Weihai International Eco. & Tech. Coop. Co. Ltd.	Weihai	222.8
211	215	Jiangsu Nantong Liujian Construction Group Co.	Rugao	215.2
216	..	International Co. of Yanjian Group Co. Ltd.	Yantai City	199.7
220	203	China Petroleum Pipeline Eng'g Corp.	Langfang City	193.2
221	..	Shengli Petroleum Admin. Bureau	Sinopec	188.3
227	..	Chongqing Int'l Construction Corp.	Chongqing	169.7
230	..	China Shenyang Int'l Eco. & Tech. Coop. Corp.	Shenyang	160.3
235	..	China National Complete Plant Imp. & Exp. Corp.	Beijing	154.5

.. Not available.

Source: Engineering News Record (ENR).

4.94. Foreign firms have invested considerably in this market, as illustrated by the foreign direct investment statistics of Box 4.6 and the growth of construction imports by China.

Box 4.6 Main economic indicators of the construction sector in China

Share in GDP (2012): 6.84%*

Exports (US$ million): 2010: 14,490; 2011: 14,724 (+2%); 2012: 12,245 (-17%)
Average growth of exports (2005-2012): +25%

Imports (US$ million): 2010: 5,071; 2011: 3,728 (-26%); 2012: 3,618 (-3%)
Average growth of imports (2005 -2012): +12%

FDI outward stock (US$ million): 2008: 2,681; 2009: 3,413 (+27%); 2010: 6,173 (+81%)
FDI outward flow (US$ million): 2008: 733; 2009: 360 (-51%); 2010: 1,628 (+352%)

FDI inward stock (US$ million): 2008:..; 2009:..; 2010: 4,322
FDI inward flux (US$ million): 2008: 1,093; 2009: 692 (-37%); 2010: 1,461 (+111%)

Employment absolute number and percentage share in total employment (2012): 41.808 million i.e. 5.45% of total employment, of which number of employed persons in state-owned companies in Urban Units by Sector and Registration Status: 17.248 million

Labour productivity: RMB 267,860/person (based on gross output)

Cement production (thousand metric tons monthly average) 2010: 153,663; 2011: 171,931; 2013: 182,004

Construction of new buildings - residential (thousand square metres monthly average or calendar months): 2010: 51,013; 2011: 59,744

Construction of new buildings - non-residential (thousand square metres monthly average or calendar months) 2010: 12,288; 2011: 14,627

.. Not available.

Source: WTO-UNCTAD-ITC Trade in services database, except *Chinese National Bureau of Statistics.

4.2.3.2.1 Regulatory regime

4.95. In regulatory terms wholly foreign-owned firms are allowed but the presence of foreign firms is limited to four specific segments, a situation reflected by China's GATS commitments which, being made on a standstill basis, reflect the applied regime. Hong Kong, China and Macao, China benefit from preferential commitments enshrined in the CEPAs. Qualification requirements are applied on a national-treatment basis. However, qualifications are granted only to independent newly established legal companies and do not therefore take into account the qualifications acquired abroad by their parent companies (so-called "global track record"). Foreign firms must thus start from the lowest grade of qualification. The status of constructor ("jian zao shi"), a function required for all large and medium-sized projects, remains reserved for Chinese nationals and Hong Kong, China and Macao, China residents. Boxes below describe in more detail the regulatory regimes of construction services in China, namely the multilaterally-bound regime (GATS commitments, Box 4.7), the preferential regimes (FTA commitments, Box 4.8), the applied regime in particular in terms of licensing, registration and qualification requirements (Applied regime, Box 4.9) and the additional liberalization measures undertaken in the context of the China (Shanghai) Pilot Free Trade Zone (CSPFTZ experimental liberalization measures, Box 4.10).

Box 4.7 GATS commitments and applied market access and national treatment regime

GATS commitments are made on a standstill basis and reflect the applied regime and notably Chapter 3 of the Provisions on the Administration of Foreign-Invested Construction Enterprises (Decree No. 113) limiting the scope of contracting.
For all construction services (CPC 511 to 518[a]):
- cross border (market access and national treatment): unbound due to lack of technical feasibility;
- consumption abroad (market access and national treatment): none;
- commercial presence: market access: wholly-owned foreign enterprises permitted but restricted to the four following types of construction projects:

1. construction projects wholly financed by foreign investment and/or grants;
2. construction projects financed by loans of international financial institutions and awarded through international tendering according to the terms of loans;
3. Chinese-foreign jointly constructed projects with foreign investment equal to or more than 50%; and Chinese-foreign jointly constructed projects with foreign investment less than 50% but technically difficult to implement by Chinese construction enterprises alone;
4. Chinese-invested construction projects which are difficult to implement by Chinese construction companies alone can be jointly undertaken by Chinese and foreign construction companies with the approval of provincial government;

Commercial presence national treatment: none;
Movements of natural persons: unbound except as indicated in the horizontal commitments.[b]

a The coverage of CPC 518 "renting services related to equipment for construction or demolition of buildings of civil engineering works with operator" being limited only to the rental and leasing services of construction and/or demolition machines with operator, which are owned and used by foreign construction enterprises in their supply of services.

b For an analysis of the horizontal commitments on movement of natural persons see the section on movements of natural persons.

Source: China's GATS Schedule of Commitments, WTO document GATS/SC/135, 14 February 2002.

Box 4.8 Free Trade Agreements commitments

FTAs with Chile, New Zealand, Singapore, Pakistan and Peru contain commitments for construction exactly identical to the GATS commitments.

CEPAs with Hong Kong, China; and Macao, China contain in their initial text and in their supplements n° I, VI and X a series of preferential provisions regarding construction services namely:

- construction companies on the mainland set up and invested in by Hong Kong, China/Macao, China service suppliers are exempted from foreign-investment restrictions when undertaking Chinese-foreign joint construction projects;
- construction companies on the mainland invested in by Hong Kong, China/Macao, China service suppliers will follow the relevant laws and regulations on the mainland for application of construction qualification certificates. Those which have acquired such certification are permitted, in accordance with laws, to bid for construction projects in all parts of the mainland;
- there will be no restriction on the proportion of Hong Kong, China/Macao, China permanent residents being project managers approved by the qualification administration authorities for construction companies on the mainland set up by Hong Kong, China service suppliers;

- Hong Kong, China/Macao, China service suppliers who had already obtained the certificate of approval for establishment of companies with investment of Chinese Taipei, Hong Kong, China and Macao, China on the mainland but had not yet obtained the construction company qualification certificate could apply, before 1 July 2005, for a certificate for undertaking single construction projects based on their signed construction contract and "Construction Qualification Certificate for Chinese Taipei, Hong Kong and Macao Enterprise". Subject to the preliminary vetting and agreement of the construction administration department at provincial level, the application will be processed by the Ministry of Construction;
- the residency requirement is waived for Hong Kong, China/Macao, China permanent residents employed as engineering technical staff and economic managerial staff in construction;
- from the signing date of this agreement and before promulgation of the new "Standards for the Qualifications of Construction Enterprises", the recognition policy of the then-Ministry of Construction for Hong Kong Project Managers concerning the qualification assessment of Hong Kong-invested construction enterprises with the mainland will remain unchanged. The recognition of Hong Kong Project Managers will remain valid for the purpose of qualification administration of such enterprises employing them originally. After promulgation of the new "Standards for the Qualifications of Construction Enterprises", the originally recognized Hong Kong Project Managers will be allowed to continue to act as Project Managers of projects that they contracted or where they have commenced construction before promulgation of the standards, until completion;
- contractual service-providers employed by Hong Kong, China/Macao, China service suppliers are allowed to provide services under this sector or sub-sector on the mainland.

Source: WTO RTA-IS Database.

Box 4.9 Licensing, registration and qualification requirements

Licensing, authorization or registration requirements and procedures (including pre-qualification standards and qualification rating systems)

The "Provisions on the Administration of Foreign-Invested Construction Enterprises", Decree No. 113 of the then MOFTEC and MOC[a] dated 27 September 2002, which entered into force on 1 December 2002, and the "Implementing Measures on the Qualification Administration Specified in the Provisions on the Administration of Foreign-Invested Construction Enterprises" of the MOC (Jinshi 2003 No. 73 of 8 April 2003) stipulate the following:

- a foreign investor intending to establish a foreign-invested construction company shall:
  - apply for an approval certificate from the MOFTEC at central level (for a super grade or grade A qualification applicant) or at local level (for a grade B or lower qualification applicant).
  - register with the State Administration for Industry and Commerce at central level or at local level to obtain a business licence;
  - apply for a qualification certificate from the construction administration at central level (for a super grade or grade A qualification applicant) or at local level (for a grade B or lower qualification applicant).
- for a super grade or grade A applicant, the application for the approval certificate must be made at the local level of the administration of the MOFTEC, which has 30 days to complete a preliminary examination and to grant or refuse a preliminary approval. The preliminary approval, if granted, is transmitted to the central level of the MOFTEC, which must transmit the file within ten days to the MOC. The MOC must in turn transmit its opinion within 30 days, after which the MOFTEC has 30 days to grant or refuse the approval. Reasons for disapproval must be given in written form. Within 30 days of receiving the approval certificate the applicant shall register with the State Administration for Industry and Commerce and obtain a business licence. It will then apply for a qualification certificate in accordance with the regulations on the Qualification Standards for Construction Enterprises (see below the section on qualification requirements);
- for grade B or lower the same procedure applies at local level mutatis mutandis;

- Decree No. 155 of the MOC and MOFCOM on the "Provisions on the Administration of Construction and Engineering Enterprises" of 20 December 2006 (entry into force on 26 March 2007), applies these procedures to both construction and engineering services companies and requires, in addition, in its Article 13, a preliminary experience condition: that the foreign investor shall be a company engaged in the relevant engineering services or [for an individual] a certified technician in his or her home country.

Professional qualification requirements and procedures

Main regulations

"Implementing Measures on the Qualification Administration Specified in the Provisions on the Administration of Foreign-Invested Construction Enterprises" of the MOC (Jinshi 2003 No. 73 of 8 April 2003), Regulations on Administration of Construction Enterprise Qualifications (Decree No. 87 of the Ministry of Construction), Opinions of Implementing the Regulations on Administration of Construction Enterprise Qualifications (JianBanJian [2001] No. 24), Criteria of Grading of Construction Enterprise Qualifications (JianJian [2001] No. 82)

Main features of those regulations

- the Qualification Standards impose minimal capital requirements, qualitative staffing requirements, technological requirements, equipment requirements and track records for various grades of qualifications;
- the detailed qualification requirements are organized in three large categories, themselves divided into specific subcategories which are again divided into one to four grades, the main categories and subcategories being general contracting (building, electrical, chemical etc.); special contracting (steel, bridges, roads railways etc.), and labour contracting (carpentry, masonry, painting etc.);
- those qualification requirements are applied equally to Chinese and foreign companies on a national treatment basis;
- however, qualifications are granted only to newly established independent legal companies. They do not therefore take into account the qualifications acquired abroad by their parent companies (so-called "global track record") and thus must start from the lowest grade. However a newly-established foreign funded construction enterprise that has contracted projects may apply directly for grade B and/or above qualifications if its turnover meets the turnover criteria prescribed by the qualification requirement;
- the qualification requirements also establish a ceiling of contract value of five times the registered capital of the company, again applied on a national treatment basis. If a company wishes to undertake a project above this ceiling it must apply for a higher grade of qualification. The "Criteria of Grading of Construction Enterprise Qualifications" (JianJian [2001] No. 82) and the "Administration Regulations on Certified Architects" (MOC Order 153) stipulate that the qualification requirements on some levels for certain professions are subject to a maximum contractual value;
- the 2004 "Probation of Administration of Construction Projects" stipulates that project-management companies will be allowed to operate as long as they obtain one of the six following qualifications: engineering project prospecting/design/construction/supervision/costs consultancy/tendering agency.
- in order to ensure the quality of construction work, a "constructor (jian zao shi)" [Jin Shi No. 81, 2011] is assigned to every large and medium project site. The examination in order to gain qualification as a "constructor" is open only to Chinese nationals and Hong Kong, China and Macao, China residents.

Specific standards on foreign personnel, equipment and material

- the 2003 implementing measures mentioned above stipulate that "In the event a foreign-invested construction enterprise employs foreigners to be its engineering, technical, economic and management personnel, each of such persons shall reside in China for at least three months cumulatively in one year";
- qualification requirements set specific standards for equipment and technologies employed.

a The Ministry of Foreign Trade and Economic Cooperation (MOFTEC) has been renamed Ministry of Commerce (MOFCOM), and the Ministry of Construction (MOC) has been renamed Ministry of Housing and Urban and Rural Development (MOHURD).

Source: Information provided by the Chinese authorities.

Box 4.10 Experimental liberalization in the context of the China (Shanghai) Pilot Free Trade Zone

So far two measures have been taken to liberalize further construction and related engineering-design services, namely:

- the 50% investment ratio for Chinese shares in a Sino-foreign construction project is abolished for projects located in the China (Shanghai) Pilot Free Trade Zone;
- the qualification requirements for engineering design performance applicable to foreign-invested engineering design companies will be abolished when the project is located in the China (Shanghai) Pilot Free Trade Zone, and the contract concluded with the Shanghai municipality.

Source: Information provided by the Chinese authorities.

4.2.4 Education

4.96. The main statistical indicators of the education services sector are described in Box 4.11 below.

Box 4.11 Education services sector main statistical indicators

International tertiary students hosted by China (2012): 328,330
Chinese tertiary students abroad: (2010): 562,889 of which USA: 126,498; Australia: 87,588; Japan: 86,553; United Kingdom: 55,496; Republic of Korea: 45,757

Percentage of primary students (ISCED1) by type of institution:
Independent private: 0%; government-dependent private: 6.7%; public: 93.3%
Percentage of lower secondary students (ISCED2) by type of institution:
Independent private: 0%; government-dependent private: 0.3%; public: 99.7%
Percentage of upper secondary students (ISCED3) by type of institution:
Independent private: 0%; government-dependent private: 10.6%; public: 89.4%
Percentage of tertiary students (ISCED5-6) by type of institution:
Independent private: 0%; government-dependent private: 16.03%; public: 83.96%

*Sino-foreign cooperation projects (2013): 1,986 (174 educational institutions and 1,812 projects) enrolling 550,000 students, 300,000 of which in higher education (i.e. 1.4% of enrolment at the higher education level)
Origin of projects (by percentage of students enrolled, 2013): Australia: 20.1%; UK: 17.7%; Canada: 12.1%; USA: 14.2%
Intergovernmental education cooperation projects (2012): 77
Number of countries and regions with which China has signed mutual recognition of diploma agreements (2013): 41
Number of high-level bilateral mechanisms, State-to-State consultations in education (2008): 46
Number of foreign-invested training companies registered with the State Administration for Industry and Commerce: 226, none operating for profit

**FDI outward stock (US$ million): 2008:18; 2009: 21 (+21%); 2010: 24 (+13%)
FDI outward flow (US$ million): 2008: 2; 2009: 3 (+67%); 2010: 2 (-33%)
FDI inward stock (US$ million): 2008: not available; 2009: not available; 2010: 3,291
FDI inward flow (US$ million): 2008:36; 2009:14 (-63%); 2010:8 (-39%)
Value added (US$ million): 2009: 153, 435; 2010: 177,867 (+16%), 2011: not available
Employment (thousand): 2009: 15,504; 2010:15,818 (+2%); 2011: 16,178 (+2%)

Source: UNESCO except *MOFCOM Trade in Services/Trade in Education Report 2008 and **WTO-UNCTAD-ITC Trade in Services Statistics Database.

4.2.4.1 Regulatory regime

4.2.4.1.1 Applied regimes

4.97. The general investment regime for education services defined by the Catalogue for the Guidance of Foreign Investment Industries, as amended in 2011[38], is as follows:

- "advanced educational institutions" (limited to joint venture or cooperative) and "vocational skills training" are classified in the "encouraged" category;
- regular high school education institutions[39] are classified in the "restricted" category;
- "institutions of compulsory education and special education such as military police, political and party schools" are classified in the "prohibited" category;
- the remaining education levels (e.g. primary, vocational secondary, adult, and other) are classified by default in the "permitted" category.

4.98. This regime also applies to the companies operating in the for-profit/training sector.

4.99. In terms of sector regulations, China has two main regimes for education services, one for education services *stricto sensu*, i.e. compulsory education and not-for-profit education services supervised by the Ministry of Education (MoE), and one for training/for-profit activities supervised by the Ministry of Labour and Social Security and by the State Administration of Industry and Commerce.

[38] Viewed at: http://english.mofcom.gov.cn/article/policyrelease/aaa/201203/20120308027837.shtml.
[39] As opposed to vocational secondary education institutions.

4.100. The regime administered by the Ministry of Education is governed by the "Regulations of the People's Republic of China on Chinese-Foreign Cooperation in Running Schools" (Decree No. 372 of 1 March 2003 effective 1 September 2003)[40] and its implementation rules: the "Regulations on Sino-Foreign Cooperative Education" (promulgated by the Ministry of Education on 1 March 2004, which entered into force on 1 July 2004).

4.101. The main market access provisions of these regulations are the following: the president or the principal administrator must be of Chinese nationality and their nomination must be approved by the competent authorities; foreign teachers and administrators shall possess a bachelor's degree or above, related occupational certificates, and at least two years' experience in the field of education and teaching; no foreign educational institution, other organization or individual may unilaterally establish schools or other educational institutions providing education mainly to Chinese citizens within the territory of China; the foreign partner must have a legal personality. Motives for rejection include cases where: (i) the application violates social and public interests, historical and cultural tradition and the public-interest nature of education and is not in line with the development of national or local educational undertakings; (ii) either partner of the Sino-foreign cooperative school fails to meet the stipulated conditions; (iii) the cooperation agreement fails to meet the statutory requirements and the parties still fail to make correction after being notified of such failure; (iv) the application documents contain fraudulent information; (v) other circumstances under which application shall not be approved as stipulated by laws and administrative regulations.

4.102. Regarding the procedure for approval of Sino-foreign education institutions, the role of the respective authorities for the various types of institutions and programmes is detailed in Table 4.9 below. Delays prescribed by the regulation vary depending on the type of the request formulated and the level of education concerned: 45 working days to approve the initial proposal to set up Sino-foreign cooperative institutions; six months for the definitive set-up of an institution engaged in degree education (not including the time devoted to an expert panel discussion set up to examine the application); three months for non-degree education. Since the promulgation and implementation of the guidelines for education planning in 2010, the Ministry of Education has accepted, reviewed and examined Sino-foreign cooperation projects at undergraduate level and above six times, and approved 412 projects submitted by domestic higher education institutions. The approved projects accounted for 30%-48% of all the accepted projects. Project examination and approval is carried out twice a year with a view to controlling the entry of resources and to ensure their quality. The main reason for non-approval of projects is the failure to be designed and planned in accordance with the Regulations on Sino-Foreign Cooperative Education and the implementation rules thereof.

4.103. Regarding the interaction with the national degree awards system, Sino-foreign cooperative education institutions may become qualified to independently award Chinese bachelor's degrees if approved by the provincial academic degree committees, as delegated by the Academic Degrees Committee of the State Council. For masters and PhD levels, the Academic Degrees Committee of the State Council is the relevant authority.

4.104. The accreditation and quality insurance policy is defined by the "State Guidelines for Medium-to-long-term Education Reform and Development (2010-2020)", promulgated in July 2010, which has designated quality improvement as the "core task of education reform and development". The China Academic Degrees and Graduate Education Development Centre of the MOE has become a member of the International Network for Quality Assurance Agencies in Higher Education (INQAAHE) in order to carry out cross-border higher education quality guarantee activities in accordance with international rules (notably UNESCO-OECD guidelines) in light of China's national conditions and educational practice.

4.105. In terms of international mobility policy, the Chinese Government generally supports students and scholars studying abroad, encourages them to return to China after completion of their studies and therefore imposes no limitations on Chinese students studying abroad. In addition, Chinese universities are encouraged to organize international exchange activities for their students to further open up the education sector.

[40] Viewed at: http://www.moe.edu.cn/publicfiles/business/htmlfiles/moe/moe_861/200506/8646.html.

4.106. The main ongoing developments regarding Sino-foreign institutions and programmes are evaluation programmes. China first undertook in July 2009 a pilot programme of evaluation of Sino-foreign cooperative education institutions and programmes at and above the undergraduate level in four provinces or municipalities: Liaoning, Tianjin, Jiangsu and Henan. The evaluations mainly focused on self-review complemented by random inspection. Examples of indicators used were for institutions: aims, management system, and quality management; and for programmes: education targets and schemes, project management, and education conditions. The evaluation had three possible outcomes for the institutions and programmes concerned: "qualified", "conditionally qualified" and "not qualified". The evaluation was completed at the end of 2011. The results were positive overall, but in some cases problems such as inadequate resources, repeated courses, low level of education, and lack of distinctive characteristics were also noted; 97% of the institutions and programmes achieved a "qualified" or "conditionally qualified" grade while 3% failed the test.

4.107. Based on this pilot programme, in 2013 the Ministry of Education (MOE) organized a nationwide evaluation of Sino-foreign cooperative education. The evaluation programme is organized by the Department of International Cooperation and Exchanges of the MOE and implemented by the China Academic Degrees and Graduate Education Development Centre of the MOE. The provincial (or municipal) education administrative authorities are responsible for coordinating and guiding the evaluation of the Sino-foreign cooperative education within their respective administrative regions according to the arrangements of the MOE, and the relevant institutes of higher learning are responsible for evaluating their own institutions and programmes. The evaluation procedure is divided into three steps, namely self-review, online announcement, and comprehensive review. The conclusions of the evaluation will focus on management mechanisms, funds management, recruitment and academic credentials management, diploma and certificates, management, teachers' qualifications, teaching and learning organization, and education quality. By September 2013, 326 institutions and programmes approaching the expiry of the cooperation period in 22 provinces (municipalities) nationwide had participated in the evaluation and completed the step of self-review and were expected to complete the remaining evaluation steps before the end of 2013. The institutions found to have significant problems will be required to undertake rectification and reform within a stipulated period, and will be subject to sanctions such as the suspension of pupils' recruitment.

4.108. Table 4.9 describes the roles of the various authorities in the approval of Sino-foreign cooperative education institutions and programmes for both administrative regimes.

4.109. The administrative regime for training/for profit services is supervised by the Ministry of Human Resources and Social Security and the State Administration for Industry and Commerce. The registration procedures applicable to these activities are the same as those applicable to any commercial or industrial activities. In terms of accreditation and certification, private training institutions issue certificates rather than diplomas. Those certificates are in turn accredited by sectoral professional associations under the purview and control of the Ministry of Labour and Social Security, which is in charge of vocational training and of the State Administration of Industry and Commerce.

Table 4.9 Roles of the various authorities in the approval of Sino-foreign cooperative education institutions and programmes

Nature of the cooperation	Level of studies	Role of the provincial authority	Role of the national authority
Sino-foreign cooperative education institutions	Undergraduate and above	To be commented on by the local people's government in the provinces, autonomous regions and municipalities directly under the Central Government	To be examined and approved by the MOE
	Higher professional education and non-degree higher education	To be examined and approved by the local people's government in the provinces, autonomous regions and municipalities directly under the Central Government	To be filed with the MOE
	Secondary degree education and education for self-taught examination, coaching and pre-school education	To be examined and approved by the education departments/commissions under the local people's government in the provinces, autonomous regions and municipalities directly under the Central Government	To be filed with the MOE
	Occupational training	Labour administration departments under the local people's government in the provinces, autonomous regions and municipalities directly under the Central Government	
Sino-foreign cooperative education programmes	Undergraduate and above	To be commented on by the education departments/commissions under the local people's government in the provinces, autonomous regions and municipalities directly under the Central Government	To be examined and approved by the MOE
	Higher education at college level, non-degree higher education, senior secondary education and education for self-taught examination, coaching and pre-school education	To be examined and approved by the education departments under the local people's government in the provinces, autonomous regions and municipalities directly under the central government	To be filed with the MOE
	Occupational training	The labour administration department under the State Council (Ministry of Labour and Social Security)	

Source: Information provided by the Chinese authorities.

4.2.4.1.2 Provisions in the GATS and FTAs

4.110. GATS commitments are based on the applied regime and amount, therefore, to a standstill. For primary, secondary, higher, adult and other education services excluding special education services (e.g. military, police, political and party school education), and excluding national compulsory education for primary and secondary, mode 1 is unbound for market access and national treatment; mode 2 has no restrictions for market access and national treatment; for mode 3 an entry for market access stipulates that joint schools will be established with foreign majority ownership allowed, while the national treatment column is unbound; finally mode 4 is unbound except as indicated in the horizontal commitments and subject to the additional limitations that individual foreign education service suppliers may enter China to provide education services when invited or employed by Chinese schools, and other education institutions for market access and that qualifications required entail the possession of a bachelor's degree or higher and an appropriate professional title or certificate with two years' professional experience for national treatment.

4.111. Regarding free trade agreements, the education commitments undertaken by China in its FTAs with Peru, Pakistan, and Singapore are identical to its GATS commitments. The Free Trade Agreement with Chile contains no sector qualification whatsoever ("educational services" are offered in general) but has the same restrictions as the GATS commitments in the market access and national treatment columns.

4.112. The CEPAs with Hong Kong, China and Macao, China contain a concession by which Hong Kong, China and Macao, China suppliers are allowed to set up international schools (for primary, secondary, adult and other education services) on a wholly-owned basis in Qianhai and Hengqin. Their target students may be expanded to include children of Chinese nationals residing abroad and returnees who, after studying abroad, are working in Qianhai and Hengqin. Hong Kong, China and Macao, China suppliers are also allowed to set up business-based training bodies on the mainland on a wholly-owned, equity joint-venture or contractual joint-venture basis.

4.113. In addition to commitments similar to those in the GATS, the FTA with New Zealand contains an additional commitment by which China will list on its Ministry of Education "Study Abroad" website the 8 New Zealand universities, the 20 Institutes of Technology and Polytechnics, TeWananga o Aotearoa, Te WhareWananga o Awanuiarangi and Te Wananga o Raukawa, and 6 degree-conferring Private Training Establishments duly approved and accredited by the New Zealand Qualification Authority (NZQA). In addition, both parties will jointly initiate work at the official level on evaluation of the quality assurance criteria for qualifications, which include a distance delivery component.

4.2.4.1.3 Experimental liberalization in the context of the China (Shanghai) Pilot Free Trade Zone

4.114. So far, two measures have been taken to further liberalize education services in the context of the China (Shanghai) Pilot Free Trade Zone. First the establishment of a profit-making Sino-foreign cooperative educational training institution will be allowed; second, similarly, the establishment of profit-making Sino-foreign occupational training institutions will be allowed. In both instances, those institutions will not be allowed to branch out into the rest of the territory of China and their activities will remain confined to the SFTZ.

4.2.5 Transport services

4.2.5.1 Maritime transport

4.115. The trade regime of maritime transport services in China has been described in detail in previous TPR reports[41] and has remained largely unchanged. The only notable developments that have occurred since the last Report in 2012 are the reform of tonnage dues and the renewal of the ad hoc tax-free Registration Policy for the Chinese Flag-of-Convenience Ship Programme.

4.116. The Interim Regulations on Vessel Tonnage Dues (the "Interim Regulations") were promulgated by Decree [2011] No. 610 of the State Council on 5 December 2011 and entered into force on 1 January 2012. They replace the Provisional Procedures of the Customs of the People's Republic of China Governing the Levying of Vessel Tonnage Dues (the "Interim Measures") issued in September 1952. This tonnage dues reform has modified the tax base, the tariffs and rates and rules on deductions and exemptions.

4.117. In terms of tax base, Chinese vessels engaged in international trade are now subject to the dues whereas they were not under the previous regime. The net tonnages are classified in four classes: less than 2,000 net tonnes; between 2,000 net tonnes and 10,000 net tonnes; more than 10,000 net tonnes but less than 50,000 net tonnes; and more than 50,000 net tonnes. In addition to the original 30-day and 90-day tonnage dues licence, a one-year tonnage dues

[41] Notably in 2012 (WT/TPR/S/264/Rev.1, paragraphs 205 to 228, pages 145 to 150 and tables, pages 216 to 220), 2010 (WT/TPR/S/230/Rev.1, paragraphs 111 to 126, pages 93 to 96) and 2008 (WT/TPR/S/199/Rev.1, paragraphs 248 to 271, pages 169 to 173).

licence was created. The rate for the first class was decreased while the rates for the largest vessels were increased. Preferential rates are applicable to vessels of Chinese nationality and to vessels of flag States, which have entered into treaties or agreements that contain clauses offering most-favoured-nation treatment on a reciprocal basis with the People's Republic of China with regard to taxes and dues levied on vessels. General rates are applicable to other taxable vessels.

4.118. Fishing ships, breeding boats, non-powered ships and military and armed police vessels are exempt from tonnage dues (while non-powered barges and tugs are entitled to a halved rate). The threshold for tonnage dues is increased to RMB 50 from RMB 1.

4.119. For the 12th Five-Year Plan period (2011-2015), China has renewed its ad hoc tax-free Registration Policy for the Chinese Flag-of-Convenience Ship Programme via the "Notice on Renewing Tax-Free Registration Policy for the Chinese Flag-of-Convenience Ship Programme for the 12th Five-Year Plan Period" (Document [2011] No. 99 of the Ministry of Transport of 23 December 2011), exempting eligible vessels from customs duties and import value-added tax, in a bid to attract Chinese Flag-of-Convenience ships to register in China.

4.120. As mentioned in section 2.5.4 on services liberalization measures in the Shanghai Free Trade Zone, the "international relays" segment of coastal shipping has been partially liberalized. More specifically the Framework Plan for the China (Shanghai) Pilot Free Trade Zone approved and promulgated on 18 September 2013 by the State Council and the Announcement on the Trial Implementation in Shanghai of Domestic Coastal Shipping by Chinese-Invested Foreign-Flagged Ocean-going Vessels of the Ministry of Transport of 27 September 2013, contain a provision whereby as of 27 September 2013, non-Chinese-flagged container ships, directly or indirectly owned by Chinese invested shipping companies[42], will be allowed to move import/export containers on routes between domestic coastal ports and Shanghai Port (so-called "international relays") which contrasts with the previous policy of barring foreign-flagged ships from any coastal trade. This is not applicable to wholly foreign-owned shipping companies established in accordance with Chinese laws.

4.121. In addition, wholly foreign-owned international ship management enterprises will be allowed in the context of the China (Shanghai) Pilot Free Trade Zone while the foreign equity ratio restrictions of 49% applicable to both Sino-foreign joint-venture shipping companies and to Sino-foreign cooperative international shipping companies will be abolished in the zone. The establishment of an international ship registration system will also be explored.

4.2.5.2 Air transport

4.122. The air transport services trade regime in China has been described in detail in previous TPR reports[43] and has remained largely unchanged.

4.123. The only notable developments since the last Review in 2012 is the long awaited promulgation on August 2012 of a new regulation on computer reservation systems, the "Interim Provisions on the Administration of Licences for Sales Agencies Designated by Foreign Air Transport Enterprises within the Territory of China to Directly Enter and Use Foreign Computer Reservation Systems" promulgated by the Civil Aviation Administration of China (Decree No. 214 of the CAAC, implemented from 1 October 2012), which replaces a policy document promulgated in 1995. The new regulation does not create any additional market access opportunities for foreign firms as compared to the GATS and FTA commitments but is geared towards stabilizing, upgrading and detailing the relevant regulatory framework hitherto based on provisional rules for authorization of sales agencies of foreign transport enterprises in terms of requirements and procedures.

[42] That is, business entities with legal person status that are registered in the Chinese territory, have obtained the International Liner Shipping Qualification Registration Certificate in accordance with the Regulations of the People's Republic of China on International Ocean Shipping, and engage in international ocean shipping business.

[43] Notably in 2012 (WT/TPR/S/264/Rev.1, paragraphs 235 to 263, pages 152 to 158, and pages 222 to 224), 2010 (WT/TPR/S/230/Rev.1, paragraphs 100 to 110, pages 91 to 93) and 2008 (WT/TPR/S/199/Rev.1, paragraphs 233 to 247, pages 166 to 169).

4.124. The regulation imposes an extensive code of conduct on the sales agent and defines the level of qualification required for staff and their legal responsibilities, notably regarding the protection of data. In order to guarantee information safety and stability, service providers of foreign computer reservation systems are required by the new provisions to establish back-up enquiry systems at designated places within the territory of China to keep sales agency information, flight information, passenger information and other similar data generated by sales agencies of foreign air transport enterprises through the use of foreign computer reservation systems to make reservations and issue tickets within the territory of China. All foreign airlines (10) and all agents (15) that have so far applied for authorization under this new legal framework have obtained licences.

4.125. Regarding bilateral air transport agreements, Table 4.10 below updates the table contained in the last TPR Report of China. Detailed data on China's air transport policy until 2005 are contained in the "QUASAR profile" of China. China's weighted air liberalization index was 5.5[44], and the highest and lowest indexes of the agreements covered by the study were 0 and 14, respectively. Since that document was issued, China has amended or concluded 18 new agreements.

Table 4.10 Liberalization of air transport services under China's bilateral air service agreements, 2011

Partner	Date	5th	7th	Cabotage	Coop	Designation	Withholding	Pricing	Capacity	Stat	ALI
Afghanistan	2006	Y	N	N	N	Multi	SOE	DA	PD	Y	10
Algeria	2006	Y	N	N	Y	Multi	SOE	DA	PD	Y	13
Myanmar	2006	Y	N	N	Y	Multi	SOE	DA	FD	Y	21
Saudi Arabia	2007	Y	N	N	Y	Multi	SOE	DA	PD	Y	13
Tajikistan	2007	N	N	N	N	Multi	SOE	DA	PD	Y	4
Zambia	2007	Y	N	N	Y	Multi	SOE	DA	PD	Y	13
United States[a]	2007	Y	Y	N	Y	Multi	SOE	DD	PD	Y	25
Angola	2008	Y	N	N	Y	Multi	SOE	DA	PD	N	13
Tanzania	2008	Y	N	N	Y	Multi	SOE	DA	PD	Y	13
PDR Korea	2008	N	N	N	N	Single	SOE	DA	PD	Y	0
Sudan	2009	Y	N	N	Y	Multi	SOE	DA	PD	Y	13
Chile	2009	Y	N	N	Y	Multi	SOE	CoO	FD	Y	24
Croatia	2009	Y	N	N	Y	Multi	SOE	DA	PD	Y	13
Russia	2010	Y	N	N	Y	Multi	SOE	DA	PD	Y	13
ASEAN	2010	Y	N	N	Y	Multi	SOE[b]	CoO	FD	Y	24/26
Switzerland	2010	Y	N	N	N	Multi	SOE/PPoB[c]	CoO	PD	Y	17
Cameroon	2010	N	N	N	Y	Multi	SOE	CoO	PD	Y	10
Georgia	2011	N	N	N	Y	Multi	SOE	CoO	PD	Y	10

a Amending protocol.
b With optional CoI (Community of Interest clause) for the ASEAN parties.
c SOE for China, PPoB for Switzerland.

Note: "5th" stands for fifth freedom rights; "7th" for seventh freedom rights; "Coop" for cooperation clauses; "Stat" for statistics; "ALI" for Air Liberalization Index; "Y" for yes; "N" for no; "Multi" for multi-designation; "Single" for single designation; "SOE" for substantial ownership and effective control; "PPoB" for principal place of business; "DA" for double approval; "DD" for dual disapproval; "CoO" for country of origin; "PD" for pre-determination; and "FD" for free determination.

Source: ICAO WASA data base; Science Po RITS database; and information provided by the Chinese authorities (ALI computed by the Secretariat).

4.126. China's recent bilateral agreements are notably more liberal than those in its 2005 QUASAR profile. Aside from the agreement with Korea PDR, they all have an ALI equal to or above ten, close to the high score recorded in the QUASAR profile (14), and largely above it for four agreements (Myanmar (21), United States (25), Chile (24), ASEAN (24/26)). Essentially, liberalization has been included in clauses on fifth freedom rights (present in all new agreements except four); multi-designation (present in all new agreements except one); and cooperation

[44] WTO document S/C/W/270/Add.2, "QUASAR profile" of China, pp. I.329 to I.336. The scale ranges from 0 (classical "Bermuda II" agreements) to 50 (full common aviation market); for more details on the QUASAR methodology, see document S/C/W/270/Add.1, pp. I.9 to I.21.

on code-share, which is typical of "modern" agreements (present in all new agreements except four). In addition, there has been some (semi-) liberalization in "country of origin" pricing (in five cases) and in the rare but very liberal free determination of capacity (in three cases).

4.2.5.3 Rail transport

4.127. The trade regime of rail transport services in China has been described in detail in previous TPR reports[45] and has remained unchanged in terms of market access. However, in institutional terms, the sector is undergoing a major reform.

4.128. In March 2013, the first session of the 12th National People's Congress considered and passed the Institutional Reform and Transformation of Government functions proposed by the State Council. Regarding railways, the reform is based on the principle of the separation between regulation and operation. The main features of this reform are the suppression of the Ministry of Railways, which was an integrated body in charge both of regulation and operation, and the re-allocation of its functions to three different entities. The Ministry of Transport will be in charge of macro-regulation and notably of railway development planning and policies. The Ministry of Transport therefore becomes responsible for the overall planning of developments in rail, road, waterways and civil aviation, so as to accelerate construction of a comprehensive transportation system.

4.129. The National Railways Administration, a newly established organ subordinate to the Ministry of Transport, will be in charge of sectoral regulation, i.e. drafting railway technical standards and supervising and administering railway safety production, quality of transportation services and quality of railway construction.

4.130. Finally, a newly established China Railway Corporation will assume the corporate duties of the former Ministry of Railways to uniformly dispatch and direct railway transportation, operate railway passenger and cargo transportation, handle specific and special transportation tasks, construct railways and assume responsibility for railway safety production as the main stakeholder.

4.131. The general railway policy to be implemented by this new institution is to continue to support the development of railway construction, in particular in the central and western parts of China, accelerate the reform of the investment and financing system and pricing reform, establish and improve the standardized subsidy mechanism for public welfare railways and transport, and expand the reform of railway enterprises. The precise implementation measures are still being devised and no timetable has yet been set.

4.2.6 Movements of natural persons

4.132. As a general policy and in a developmental perspective, China encourages the movement of the following types of foreign natural persons: senior technicians, managers, academic research personnel and people with special expertise. To that effect, the Chinese authorities have developed a complete management system and provide facilitation services to such foreigners. This policy and its implementation regimes apply to all employing units within the territory of China, including employment in non-services sectors and employment of foreigners by Chinese companies or entities. The scope of these policies is therefore wider than mode 4 *stricto sensu*.

4.133. There are two "tracks" or two regimes under which these foreign persons can work in China: one that is targeted at general foreign labour, managed by the Ministry of Human Resources and Social Security (MHRSS), and a second specific regime targeted at high-level and urgently-needed foreign talent managed by the State Administration of Foreign Experts Affairs (SAFEA).

4.134. For the first regime, the basic rules are contained in the 1996 "Rules on the Management of Employment of Foreign People in China" issued by the Ministry of Labour on 22 January 1996 and revised by Decree No. 7 of the Ministry of Human Resources and Social Security on 12 November 2010. It sets out the corresponding conditions, market tests, qualification

[45] Notably in 2012 (WT/TPR/S/264/Rev.1, paragraphs 264 to 282, pages 158 to 161 and tables, pages 225 to 227, 169).

requirements and procedures. For the second regime the rules set forth and implemented by SAFEA are contained in the following three documents issued on 30 September 2004: the "Regulations on Working Licences for Foreign Experts in China"; the "Regulations on Qualification Approval of the Units Employing Foreign Experts"; and the "Regulations on Qualification Approval of the Overseas Units Introducing Foreign Culture and Education Experts to Work in China".

4.135. A new law on "Entry and Exit in the National Territory" (promulgated by the State Council on 30 June 2012 and entering into force on July 2013), supplemented by the "Regulation of the People's Republic of China on the Administration of the Entry and Exit of Foreign Nationals" (promulgated on 12 July 2013 as Decree No. 637 of the State Council and effective as of 1 September 2013), has created, *inter alia*, a new visa category for highly-skilled individuals whose expertise is in demand in China (R visa), as well as a new M visa, to be used for commercial trading visits (different from the F "business visitor" visa). The R visa is issued to "high-level and urgently-needed special foreign talents" identified by the competent departments of the Chinese Government. This law confirms the previously existing regime stipulating that foreigners wishing to work in China shall first obtain work permits and residence permits.

4.136. In addition, the two administrations involved in the management of foreigners working in China (MHRSS and SAFEA) are jointly drafting the implementation rules for that legislation, which will amend the present management rules with the aim of stepping up efforts to introduce high-level and urgently-needed special foreign talents. In addition, other departments involved in the administration of foreigners working in China, including the Ministry of Foreign Affairs and the Ministry of Public Security, are formulating the supporting regulations and policies in accordance with the newly amended "Exit and Entry Administration Law of the People's Republic of China". However, the date of inception and the precise content of the revised rules are not yet known. The new regime will probably merge the two present regimes. The draft measures will be submitted to the State Council for examination and approval and issued in the form of administrative regulations.

4.137. The basic criterion for admission is that no Chinese nationals are available to fill the vacancy, except in cases where China has undertaken GATS commitments where no such economic needs tests apply. The conditions that foreign applicants must fulfil are the following: they should be over 18 years of age, healthy and have no criminal record; they should have the skills and experience for the job[46] and, finally, they should have an employer to hire them.

4.138. The procedure applicable is outlined in Table 4.11 below comparing the main regulatory features of the two regimes as well as their interaction with China's GATS commitments.

4.139. For intra-corporate transfers, and in accordance with GATS commitments, the maximum duration of the residence permit is three years. The maximum duration of a labour contract being five years, the foreign person can, after three years, ask for an extension of the residence permit. For non-intra-corporate transferees, the extension can be granted if a new examination proves that there is still a need for the talents of the person concerned.

4.140. The qualification requirements are defined at the sector/industry level. For instance, pilots have to take the corresponding Chinese examination. China applies the national treatment principle to those qualification requirements.

4.141. No quotas are set in the management rules for the employment of foreign nationals in China, but there are some quotas at the sector/industry level, such as fisheries. Those quotas are set in proportion to the number of Chinese nationals employed. So far, these quotas only exist in a limited number of industries/sectors but new quotas will probably be introduced in other sectors/industries in the future, while the level of the quotas themselves will be raised.

[46] The skills and the professional experience of the foreign expert shall mainly be assessed and evaluated by the employer but examined and verified by the competent department dealing with foreign expert work permits. The main method is to check the application documents submitted and, when necessary, to confirm their truthfulness and accuracy through other means - contact with the foreign expert to be employed or relevant units or consultation with the relevant agency abroad for verification.

Table 4.11 Comparative table of the two regimes applicable to foreign persons

Regulatory elements	General foreign labour regime		"Foreign experts" regime
Scope	Foreign personnel employed in agriculture, industry, mining, services sectors not covered by China's GATS commitments, categories of services personnel not covered by GATS commitments	**GATS Commitments** Services sectors and categories of personnel covered by China's GATS commitments, i.e.: - senior employees (managers, executives and specialists) temporarily moving as intra-corporate transferees - senior employees (managers, executives and specialists) of foreign-invested companies - services salespersons	Foreign personnel employed in agriculture, industry, mining, services sectors not covered by China's GATS commitments, categories of services personnel not covered by GATS commitments and qualifying for the status of "expert" i.e. meeting one of the following requirements: 3.1 having the status of foreign technical and managerial professionals who are employed to work in China for the purpose of executing inter-governmental, inter-organizational agreements, protocols, or China-foreign trade contracts; 3.2 having the status of foreign professionals who are employed to work in China in the fields of education, science, etc.; 3.3 having the status of high-ranking foreign technical or managerial professionals who are employed to take up positions above deputy general managers or enjoy equivalent treatment in enterprises within the territory of P.R. China; 3.4 having the status of the status of foreign resident representatives in China of foreign experts organizations or foreign talent agencies approved by SAFEA; 3.5 having the status of foreign technical and managerial professionals with extraordinary expertise of which China is in urgent need, who are employed to work in China in the fields of economics, technology, engineering, trade, finance and accounting, taxation and tourism. Foreign experts referred to in 3.2 and 3.3 above shall hold a bachelor's or higher degree and have at least 5 years' work experience in related jobs (language teachers shall hold a bachelor's or higher degree and have at least 2 years' work experience in related jobs).
Main regulation	1996 Management rules on the management of employment of foreigners in China	+ Document GATS/SC/144 +	Regulations on the Issuance of Foreign Experts Work Licence, No. 139 of 30 September 2004
Market test	Economic needs test to check that no Chinese national is able to fill the vacancy	No economic needs test	No economic needs test

Regulatory elements	General foreign labour regime		"Foreign experts" regime	
		GATS Commitments		
Procedure	Four stages: 1 Submission of an application for work permit by the employer to the local bureau of the Ministry of Social Security and Human Resources (MSSHR) followed by a market test and a qualification check by the same administration. 2. Application for and issue of a visa by the consulate(s) or embassy of the country of residence. 3. Application for and issue of an employment certificate by the MSSHR. 4. Application for and issue of a residence permit by the Ministry for Public Security.	As described in the left-hand column	As described in the right-hand column	Four stages: 1. Submission of an application for a work permit by the employer to the State Administration for Foreign Experts Affairs at local level or above and a qualification check by the same administration. 2. Application for and issue of a visa by the consulate(s) or embassy of the country of residence. 3. Application for and issue "of a foreign expert certificate" by the State Administration for Foreign Experts Affairs at provincial level or above. 4. Application for and issue of a residence permit by the Ministry for Public Security.
Qualification requirements	- Set at sector/industry level - National treatment applies	As described in the left-hand column	As described in the right-hand column	Bachelor's degree and five years of professional experience (two years for teachers). - National treatment applies.
Quotas	- Only in a limited number of industries/sectors. - Set in proportion to Chinese nationals.	No quotas	No quotas	No quotas
Duration and renewal/ extension	Three years with a possibility of extension of the residence permit by the Public Security Ministry to five years, the maximum duration of the work contract being five years. - A new economic needs test is conducted for non-intra-corporate transferees.	- Three years for intra-corporate transferee. - The duration stipulated in the work contract or three years, whichever is shorter, for senior employees of foreign-invested companies. - 90 days for services salespersons.		Three years with a possibility of extension of the residence permit by the Public Security Ministry to five years, the maximum duration of the work contract being five years. - No new economic need test for the renewal.

Source: Information provided by the Chinese authorities and compiled by the Secretariat.

4.142. The regime for foreign experts is managed by the SAFEA which additionally provides services to foreign experts working in China. The relevant regulations are the "Regulations on the Issuance of Foreign Experts' Work Licences", the "Regulations on the Qualification Recognition of the Host Institution for Foreign Experts" and the "Regulations on the Qualification Recognition of Overseas Organizations Introducing Foreign Experts in the Cultural and Educational Fields to Work in China", all of which were promulgated on 30 September 2004 (Wai Zhuan Fa [2004] No. 139).

4.143. The procedures of this regime are largely similar to those of the regime for general foreign labour and are outlined in Table 4.11 above. There are no restrictions on the type of sectors in which the foreign experts can work. In terms of qualifications, a bachelor's degree and five years' professional experience are the minimum requirements. These requirements are lowered to two years' experience for teachers. There are no labour market tests and no quotas. Again, the national treatment principle is applied for these qualification requirements. The duration of stay is decided by the SAFEA after an examination of the work contract with the employer. The extension of the residence permit falls within the purview of the Public Security Ministry.

4.144. With the expansion of international exchanges, China decided to encourage further foreign experts and talents to work in China and in 2012, for instance, the four administrations concerned (Ministry of Social Security and Human Resources, State Administration of Foreign Experts Affairs, the Ministry of Foreign Affairs and the Ministry for Public Security) published a joint policy document allowing these "high-level foreign talents" to apply for multiple-entry visas and two to five years' residence.

REFERENCES

Haley U.C.V. and Haley G.T. (2013), Subsidies to Chinese Industry, Oxford University Press.

IMF Country Report No. 13/211, People's Republic of China, 2013 Article IV Consultation, July 2013. Viewed at: http://www.imf.org/external/pubs/ft/scr/2013/cr13211.pdf.

National Bureau of Statistics of China (2014), Statistical Communiqué of the People's Republic of China on 2013.

National Economic and Social Development, 24 February 2014. Viewed at: http://www.stats.gov.cn/english/PressRelease/201402/t20140224_515103.html.

OECD (2013), Agricultural Policy Monitoring and Evaluation 2013, Paris.

People's Bank of China (2013), Annual Report, 2012, pp. 16-17. Viewed at: http://www.pbc.gov.cn/publish/english/957/index.html.

People's Bank of China (2014), Highlights and China's Monetary Policy in 2013. Viewed at: http://www.pbc.gov.cn/image_public/UserFiles/english/upload/File/2013年货币政策大事记.pdf.

UNCTAD (2013) *World investment Report 2013 – Global value chains: investment and trade for development.* United Nations, New York and Geneva, 2013. Viewed at: http://unctad.org/en/publicationslibrary/wir2013_en.pdf.

WTO (2006), "Trade Policy Review – China", Geneva.

WTO (2012), "Trade Policy Review – China", Geneva.

5 APPENDIX TABLES

Table A1.1 China's merchandise exports by group of products, 2009-13

(US$ billion and %)

	2009	2010	2011	2012	2013
Total exports (US$ billion)	1,201.6	1,577.8	1,898.4	2,048.8	2,210.0
	(% of total)				
Exports under processing trade	48.8	46.9	44.0	42.1	39.0
Total primary products	6.3	6.3	6.5	6.0	5.9
Agriculture	3.4	3.3	3.4	3.2	3.2
Food	2.9	2.8	2.9	2.7	2.7
Agricultural raw material	0.5	0.5	0.6	0.5	0.5
Mining	2.9	3.0	3.1	2.7	2.7
Ores and other minerals	0.2	0.2	0.2	0.2	0.2
Non-ferrous metals	1.0	1.1	1.2	1.1	1.0
Fuels	1.7	1.7	1.7	1.5	1.5
Manufactures	93.6	93.6	93.3	94.0	94.0
Iron and steel	2.0	2.5	2.9	2.6	2.5
Chemicals	5.2	5.5	6.0	5.5	5.4
Other semi-manufactures	7.4	7.3	7.7	8.0	8.0
Machinery and transport equipment	49.2	49.5	47.5	47.1	47.0
Power generating machines	1.3	1.2	1.3	1.2	..
Other non-electrical machinery	6.0	5.9	6.2	6.2	6.2
Office machines & telecommunication equipment	28.8	28.5	26.2	26.3	..
7522 Data processing machines, with at least processing, input and output units	6.1	6.4	5.8	5.8	..
7643 Radio or television transmission apparatus	3.3	3.0	3.3	4.0	..
7649 Parts and accessories for apparatus of division 76	2.9	3.0	2.9	2.7	..
7764 Electronic integrated circuits and microassemblies	2.0	1.9	1.8	2.7	..
7599 Parts and accessories of 751.1, 751.2, 751.9 and 752	2.2	2.0	1.6	1.5	..
7763 Diodes, transistors, etc.	1.2	1.9	1.8	1.2	..
7611 Colour television receivers	1.4	1.4	1.2	1.1	..
7638 Sound/video recording/reproducing apparatus	1.8	1.3	1.1	1.0	..
7527 Storage units for data processing	0.9	0.8	0.8	0.9	..
Other electrical machines	7.7	7.9	7.7	7.5	..
7712 Other electric power machinery; parts of 771	1.0	1.1	1.0	1.0	..
7731 Insulated wire, cable etc.; optical fibre cables	0.8	0.8	0.8	0.9	..
Automotive products	1.7	1.8	2.0	2.1	..
7843 Other motor vehicle parts and accessories of 722, 781 to 783	1.0	1.1	1.1	1.1	..
Other transport equipment	3.7	4.3	4.3	3.7	..
7932 Ships, boats, etc. (excl. pleasure craft, tugs, etc.)	2.1	2.3	2.0	1.6	..
Textiles	5.0	4.9	5.0	4.7	4.8
Clothing	8.9	8.2	8.1	7.8	8.0
8442 Suits, ensembles, jackets, dresses, etc.	0.9	0.9	1.0	1.2	..
8453 Jerseys, pullovers, cardigans, etc., knitted/crocheted	1.2	1.1	1.1	1.0	..
Other consumer goods	15.9	15.7	16.0	18.3	..
8719 Liquid crystal devices, n.e.s.; lasers (excl. Laser diodes)	1.7	1.8	1.7	1.9	..
8973 Jewellery of gold, silver or platinum metals (except watches)	0.2	0.5	0.9	1.2	..
8211 Seats (excl. of 872.4), and parts	1.0	0.9	0.9	1.1	..
8513 Footwear, n.e.s., rubber or plastic soles and uppers	0.9	0.9	0.9	0.9	..
Other	0.1	0.1	0.1	0.1	0.1

.. Not available.

Source: UNSD, Comtrade database (SITC Rev. 3), and General Administration of Customs (2013), China's Customs Statistics: Monthly Exports & Imports, 12, Series, No. 292.

Table A1.2 China's merchandise imports by group of products, 2009-13

(US$ billion and %)

	2009	2010	2011	2012	2013
Total imports (US$ billion)	1,005.6	1,396.0	1,743.4	1,818.2	1,950.3
			(% of total)		
Imports under processing trade	32.1	29.9	26.9	26.5	25.5
Total primary products	32.5	34.6	37.9	38.0	36.4
Agriculture	7.6	7.8	8.3	8.6	8.4
Food	4.5	4.3	4.3	5.0	5.0
2222 Soya beans	1.9	1.8	1.7	1.9	..
Agricultural raw material	3.1	3.5	4.0	3.6	3.4
Mining	24.9	26.9	29.6	29.4	27.9
Ores and other minerals	8.8	9.8	10.6	9.1	9.1
2815 Iron ores and concentrates, not agglomerated	4.7	5.4	6.1	5.0	..
2882 Other non-ferrous base metal waste and scrap, n.e.s.	0.9	1.2	1.2	1.0	..
2831 Copper ores and concentrates	0.8	0.9	0.9	0.9	..
Non-ferrous metals	3.8	3.5	3.2	3.0	2.6
6821 Copper anodes; alloys; unwrought	1.7	1.8	1.7	1.8	..
Fuels	12.3	13.5	15.8	17.2	16.1
3330 Crude oils of petroleum and bituminous minerals	8.9	9.7	11.3	12.1	..
3212 Other coal, whether or not pulverized, not agglomerated	0.8	1.1	1.0	1.2	..
Manufactures	67.1	64.1	59.2	58.2	..
Iron and steel	2.6	1.8	1.6	1.3	1.1
Chemicals	11.1	10.7	10.4	9.8	9.8
5112 Cyclic hydrocarbons	0.8	0.7	0.9	0.9	..
Other semi-manufactures	2.8	2.8	2.8	2.7	2.8
Machinery and transport equipment	40.6	39.4	36.2	35.9	36.4
Power generating machines	1.1	0.9	0.8	0.8	..
Other non-electrical machinery	7.0	7.3	7.1	5.7	5.1
7284 Machinery and appliances for particular industries, n.e.s.	1.2	1.6	1.7	1.0	..
Office machines & telecommunication equipment	21.3	19.9	17.5	19.1	..
7764 Electronic integrated circuits and microassemblies	12.0	11.3	9.8	10.6	..
7649 Parts and accessories for apparatus of division 76	2.3	1.9	2.0	2.3	..
7527 Storage units for data processing	1.7	1.5	1.3	1.4	..
7599 Parts and accessories of 751.1, 751.2, 751.9 and 752	1.4	1.4	1.0	1.0	..
7763 Diodes, transistors, etc.	1.1	1.2	1.0	1.0	..
Other electrical machines	6.1	5.7	5.1	4.7	..
7722 Printed circuits	0.9	0.9	0.8	0.8	..
Automotive products	3.1	3.8	4.0	4.1	..
7812 Motor vehicles for the transport of persons, n.e.s.	1.4	2.1	2.3	2.5	..
7843 Other motor vehicle parts and accessories of 722, 781 to 783	1.2	1.3	1.2	1.2	..
Other transport equipment	2.1	1.8	1.6	1.6	..
7924 Aeroplanes, etc. (excl. helicopters), >15,000 kg unladen	0.9	0.7	0.6	0.8	..
Textiles	1.5	1.3	1.1	1.1	1.1
Clothing	0.2	0.2	0.2	0.2	0.3
Other consumer goods	8.3	7.9	7.1	7.2	..
8719 Liquid crystal devices, n.e.s.; lasers (excl. laser diodes)	3.8	3.7	3.0	3.1	..
Other	0.3	1.3	2.8	3.8	..

.. Not available.

Source: UNSD, Comtrade database (SITC Rev. 3), and General Administration of Customs (2013), China's Customs Statistics: Monthly Exports & Imports, 12, Series No. 292.

Table A1.3 China's merchandise exports by destination, 2009-13

(US$ billion and %)

	2009	2010	2011	2012	2013
Total exports (US$ billion)	1,201.6	1,577.8	1,898.4	2,048.8	2,210.0
	(% of total)				
America	24.6	25.2	24.8	25.1	24.1
United States	18.4	18.0	17.1	17.2	16.7
Other America	6.2	7.2	7.7	7.9	7.4
Brazil	1.2	1.6	1.7	1.6	1.6
Canada	1.5	1.4	1.3	1.4	1.3
Mexico	1.0	1.1	1.3	1.3	1.3
Europe	21.0	21.0	20.1	17.5	16.5
EU (28)	19.8	19.8	18.8	16.4	15.3
Germany	4.2	4.3	4.0	3.4	3.0
The Netherlands	3.1	3.2	3.1	2.9	2.7
United Kingdom	2.6	2.5	2.3	2.3	2.3
France	1.8	1.8	1.6	1.3	1.2
Italy	1.7	2.0	1.8	1.3	1.2
EFTA	0.4	0.4	0.4	0.3	0.3
Other Europe	0.8	0.8	0.9	0.8	0.9
Commonwealth of Independent States (CIS)	3.2	3.4	3.5	3.7	3.8
Russian Federation	1.5	1.9	2.0	2.2	2.2
Africa	4.0	3.8	3.8	4.2	4.2
Middle East	4.3	4.0	4.2	4.2	4.3
United Arab Emirates	1.6	1.3	1.4	1.4	1.5
Asia	43.0	42.6	43.5	45.3	47.1
Japan	8.1	7.7	7.8	7.4	6.8
Six East Asian Traders	25.2	24.9	25.0	27.2	29.0
Hong Kong, China	13.8	13.8	14.1	15.8	17.4
Korea, the Republic of	4.5	4.4	4.4	4.3	4.1
Malaysia	1.6	1.5	1.5	1.8	2.1
Singapore	2.5	2.1	1.9	2.0	2.1
Chinese Taipei	1.7	1.9	1.8	1.8	1.8
Thailand	1.1	1.3	1.4	1.5	1.5
Other Asia	9.6	10.1	10.6	10.7	11.3
Viet Nam	1.4	1.5	1.5	1.7	2.2
India	2.5	2.6	2.7	2.3	2.2
Australia	1.7	1.7	1.8	1.8	1.7
Indonesia	1.2	1.4	1.5	1.7	1.7
Memorandum:					
APEC	61.6	61.2	61.3	63.8	65.0
ASEAN	8.8	8.8	9.0	10.0	11.0

Source: UNSD, Comtrade database (SITC Rev. 3), and General Administration of Customs (2013), China's Customs Statistics: Monthly Exports & Imports, 12, Series No. 292.

Table A1.4 China's merchandise imports by origin, 2009-13

(US$ billion and %)

	2009	2010	2011	2012	2013
Total imports (US$ billion)	1,005.6	1,396.0	1,743.4	1,818.2	1,950.3
	(% of total)				
America	15.3	15.0	15.1	15.5	15.6
United States	7.7	7.4	7.1	7.4	7.8
Other America	7.6	7.6	8.1	8.2	7.8
Brazil	2.8	2.7	3.0	2.9	2.8
Canada	1.2	1.1	1.3	1.3	1.3
Chile	1.3	1.3	1.2	1.1	1.1
Europe	13.9	13.8	14.1	13.3	14.6
EU (28)	12.7	12.1	12.1	11.7	11.3
Germany	5.5	5.3	5.3	5.1	4.8
France	1.3	1.2	1.3	1.3	1.2
EFTA	1.0	1.5	1.8	1.4	3.1
Switzerland	0.7	1.2	1.6	1.3	2.9
Other Europe	0.2	0.3	0.2	0.2	0.3
Commonwealth of Independent States (CIS)	3.1	3.0	3.8	4.0	3.6
Russian Federation	2.1	1.9	2.3	2.4	2.0
Africa	4.3	4.8	5.3	6.2	6.0
Angola	1.5	1.6	1.4	1.8	2.5
South Africa	0.9	1.1	1.8	2.5	1.6
Middle East	5.6	6.2	7.7	8.0	8.0
Saudi Arabia	2.3	2.4	2.8	3.0	2.7
Iran, Islamic Republic	1.3	1.3	1.7	1.4	1.3
Oman	0.5	0.7	0.9	0.9	1.1
Asia	49.2	49.5	46.6	44.7	43.8
Japan	13.0	12.7	11.2	9.8	8.3
Six East Asian Traders	27.1	26.8	24.8	24.4	24.0
Korea, the Republic of	10.2	9.9	9.3	9.3	9.4
Chinese Taipei	8.5	8.3	7.2	7.3	8.0
Malaysia	3.2	3.6	3.6	3.2	3.1
Thailand	2.5	2.4	2.2	2.1	2.0
Singapore	1.8	1.8	1.6	1.6	1.5
Other Asia	9.1	10.0	10.6	10.5	5.6
Australia	3.9	4.4	4.7	4.7	5.1
Indonesia	1.4	1.5	1.8	1.8	1.6
Philippines	1.2	1.2	1.0	1.1	0.9
Other	8.6	7.8	7.4	8.2	8.3
China[a]	8.6	7.7	7.0	7.9	8.1
Memorandum:					
APEC	69.0	67.6	64.4	64.0	63.4
ASEAN	10.6	11.1	11.1	10.8	10.2

a Includes goods that have been exported from China and thereafter reimported into China.

Source: UNSD, Comtrade database (SITC Rev. 3), and General Administration of Customs (2013), China's Customs Statistics: Monthly Exports & Imports, 12, Series No. 292.

Table A2. 1 Principal notifications under WTO Agreements (as at 30 April 2014)

Agreement	Requirement/content	Document symbol and date of latest notification
Agreement on Agriculture		
Articles 10 and 18.2	Table ES:1 – Export subsidies for 2012	G/AG/N/CHN/27, 07/03/2014
Article 18.2	Table MA:2 – Tariff quotas	G/AG/N/CHN/26, 07/03/2014
Article 18.2	Table MA:1 – Administration of tariff quotas	G/AG/N/CHN/2, 25/09/2003
Article 18.2	Table DS:1 and appropriate supporting tables – Domestic support	G/AG/N/CHN/21, 13/10/2011
Article 18.3	Table DS:2 – Domestic support	G/AG/N/CHN/18, 25/03/2010
Article XXIV of GATT 1994		
Article XXIV:7(a) of GATT 1994 and Article V:7(a) of GATS	Free Trade Agreement between China and Costa Rica	WT/REG310/N/1 and S/C/N/618, 28/02/2012
Article XXIV:7(a) of GATT 1994 and Article V:7(a) of GATS	Free Trade Agreement between China and Peru	WT/REG281/N/1 and S/C/N/537, 03/03/2010
Article XXIV:7(a) of GATT 1994 and Article V:7(a) of GATS	Free Trade Agreement between China and New Zealand	WT/REG266/N/1 and S/C/N/491, 23/04/2009
Article XXIV:7(a) of GATT 1994 and Article V:7(a) of GATS	Free Trade Agreement between China and Singapore	WT/REG262/N/1 and S/C/N/483, 04/03/2009
Enabling Clause		
Enabling Clause - LDCs	Duty-free treatment for LDCs	WT/COMTD/N/39, 18/10/2011 G/C/W/656/Rev.1 WT/COMTD/N/39/Add.1/Rev.1, 01/12/2011
Enabling Clause - integration	Framework agreement on comprehensive economic cooperation between ASEAN and China	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 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/252/CHN, 05/02/2014
Article 18.5, and Article 32.6 of the 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 Anti-Dumping 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 investigations	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
Article 16.5, and Article 25.12 of the 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	Administrative measure regarding customs valuation	G/VAL/N/1/CHN/5, 11/04/2008
	Regulations on import and export duties	G/VAL/N/1/CHN/4, 07/06/2004
	Notification of the customs regulations regarding determination of customs value of royalties and licence fees related to imports	G/VAL/N/1/CHN/3, 24/09/2003
	Customs law	G/VAL/N/1/CHN/2, 16/06/2003
	Customs administration regarding determination of customs valuation of imports and exports	G/VAL/N/1/CHN/1, 05/07/2002
Decision on the checklist of issues	Checklist of issues	G/VAL/N/2/CHN/1, 05/07/2002
General Agreement on Tariffs and Trade (GATT) 1994		
Article XVII:4(a)	Notification under the Understanding on the Interpretation of Article XVII, on State-trading	G/STR/N/9/CHN/Add.1, 14/07/2003, and G/STR/N/9/CHN/Add.1/Corr.1, 25/09/2003

Agreement	Requirement/content	Document symbol and date of latest notification
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
General Agreement on Trade in Services		
Article III:3	Significant changes	No notifications in 2008
	Regulations on Administration of Foreign-Invested Construction Enterprises	S/C/N/566, 15/09/2010
	Regulations on Administration of Foreign-Invested Construction and Engineering Service Enterprises	S/C/N/565, 15/09/2010
	Measures for the Administration on the Establishment of Partnership Business by Foreign Enterprises or Individuals in China	S/C/N/564, 15/09/2010
Articles III:4 and IV:2	Contact and enquiry points	S/ENQ/78/Rev.11, 26/10/2009
Article V:7(a) of GATS (already referred to)	Notification of RTA – China and Costa Rica	WT/REG310/N/1 and S/C/N/618 28/02/2012
	Free Trade Agreement between China and Pakistan	S/C/N/551, 21/05/2010
Paragraph 14 of the Transparency Mechanism for Regional Trade Agreements (WT/L/671) and Article V:7(a) of GATS	Supplement VII to the Closer Economic Partnership Arrangement between China and Hong Kong, China and Supplement VII to the Closer Economic Partnership Arrangement between China and Macao, China	WT/REG162/N/1/Add.4 S/C/N/264/Add.4, 03/12/2010 WT/REG163/N/1/Add.4 S/C/N/265/Add.4, 17/12/2010
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 quotas for various products	G/LIC/N/1/CHN/2, 25/09/2002
	Products subject to import licence (2004)	G/LIC/N/1/CHN/4, 17/01/2005
	Notification of regulations and rules on import licensing	G/LIC/N/1/CHN/6, 24/03/2010
Article 7.3	Responses to questionnaire on import licensing procedures	G/LIC/N/3/CHN/12, 28/02/2014
Quantitative Restrictions		
QR - (G/L/59) - biennial	Notification of quantitative restrictions	G/MA/NTM/QR/1/Add.11, 11/04/2008
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	Notifications in 2014 = 15 Notifications in 2013 = 90 Notifications in 2012 = 25	G/SPS/N/CHN/635-649 G/SPS/N/CHN/545-634 G/SPS/N/CHN/520-544
Article 7 and Annex B	Enquiry points	G/SPS/ENQ/25, 15/10/2009
Agreement on Subsidies and Countervailing Measures		
Article 25.1	Programmes granted or maintained at the central government level during the period from 2005 to 2008.	G/SCM/N/186/CHN G/SCM/N/155/CHN 21/10/2011
Article 25.11	Semi-annual report on countervailing duty actions	G/SCM/N/267/CHN, 05/02/2014

Agreement	Requirement/content	Document symbol and date of latest notification
Article 32.6	Notification of the amended Foreign Trade Law	G/SCM/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
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, 30/01/2002
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 – Gasoline for motor vehicles	G/TBT/N/CHN/1017, 20/12/2013
Article 2.9	Notification of technical regulations: Notifications in 2012 = 74	G/TBT/N/CHN/863-908,912-937; G/TBT/N/CHN/448/Rev.1; G/TBT/N/CHN/162/Rev.1.
	Notifications in 2013 = 81	G/TBT/N/CHN/938-964, 967-989, 996-1016; G/TBT/N/CHN/681/Rev.1; G/TBT/N/CHN/331/Rev.1; G/TBT/N/CHN/299/Rev.1; G/TBT/N/CHN/263/Rev.1; G/TBT/N/CHN/236/Rev.1; G/TBT/N/CHN/233/Rev.1; G/TBT/N/CHN/169/Rev.1; G/TBT/N/CHN/119/Rev.1; G/TBT/N/CHN/23/Rev.1;
	Notifications in 2014 = 12	G/TBT/N/CHN/1018-1029.
Article 5.6	Notifications in 2012 = 1 Notifications in 2013 = 6	G/TBT/N/CHN/911; G/TBT/N/CHN/990-995.
Article 5.7	Notification – Medical devices	G/TBT/N/CHN/966, 04/06/2013
Agreement on Trade-Related Aspects of Intellectual Property Rights		
Article 63.2	Revised Rules for the Implementation of the Patent Law	IP/N/1/CHN/4, 24/08/2011 IP/N/1/CHN/P/3, 26/08/2011
	Revised Patent Law	IP/N/1/CHN/3, 15/12/2010 IP/N/1/CHN/P/2, 21/12/2010
	Laws and regulations	IP/N/1/CHN/2, 10/10/2003 IP/N/1/CHN/2/Add.1, 25/08/2004
	Checklist of issues on enforcement	IP/N/6/CHN/1, 19/07/2002
	Regulations on computer software protection	IP/N/1/CHN/C/2/Rev.1, 13/10/2003
	Regulations on protection of new varieties of plants	IP/N/1/CHN/P/1, 08/07/2002
Article 69	Contact points	IP/N/3/Rev.9/Add.1, 31/01/2006
Agreement on Trade-Related Investment Measures		
Article 6.2	Publications	G/TRIMS/N/2/Rev.19, 30/09/2009

Source: WTO documents.

Table A2. 2 WTO dispute settlement cases, 1 January 2012 - 31 December 2013

(In reverse chronological order)

Subject	Respondent/ complainant/ appellant	Request for consultation received	Status (as at 31 Dec. 2013)	WTO document series
China as respondent				
Measures Imposing Anti-Dumping Duties on High-Performance Stainless Steel Seamless Tubes ("HP-SSST") from the European Union	China/ European Union	13/06/2013	Panel composed	WT/DS460
Measures Imposing Anti-Dumping Duties on High-Performance Stainless Steel Seamless Tubes ("HP-SSST") from Japan	China/ Japan	20/12/2012	Panel composed	WT/DS454
Measures Relating to the Production and Exportation of Apparel and Textile Products	China/ Mexico	15/10/2012	In consultations	WT/DS451
Certain Measures Affecting the Automobile and Automobile-Parts Industries	China/ United States	17/09/2012	In consultations	WT/DS450
Anti-Dumping and Countervailing Duties on Certain Automobiles from the United States	China/ United States	05/07/2012	Panel composed	WT/DS440
Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum	China/ Japan	13/03/2012	Panel composed	WT/DS433
Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum	China/ European Union	13/03/2012	Panel composed	WT/DS432
Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum	China/ United States	13/03/2012	Panel composed	WT/DS431
China as complainant				
Certain Methodologies and their Application to Anti-Dumping Proceedings Involving China	United States/ China	03/12/2013	In consultations	WT/DS471
Certain Measures Affecting the Renewable Energy Generation Sector	European Union and Certain Member States/ China	05/11/2012	In consultations	WT/DS452
Countervailing and Anti-Dumping Measures on Certain Products from China	United States/ China	17/09/2012	Panel composed	WT/DS449
Countervailing Duty Measures on Certain Products from China	United States/ China	25/05/2012	Panel composed	WT/DS437
China as a third party				
Anti-Dumping and Countervailing Measures on Large Residential Washers from Korea, the Republic of	United States/ Korea, Republic of	29/08/2013	Panel established, but not yet composed	WT/DS464
Recycling Fee on Motor Vehicles	Russian Federation/ European Union	09/07/2013	Panel established, but not yet composed	WT/DS462
Measures Relating to the Importation of Textiles, Apparel and Footwear	Colombia/ Panama	18/06/2013	Panel composed	WT/DS461
Additional Duty on Imports of Certain Agricultural Products	Peru/ Guatemala	12/04/2013	Panel composed	WT/DS457

Subject	Respondent/ complainant/ appellant	Request for consultation received	Status (as at 31 Dec. 2013)	WTO document series
Importation of Horticultural Products, Animals and Animal Products	Indonesia/ United States	10/01/2013	Panel established, but not yet composed	WT/DS455
Measures Relating to Trade in Goods and Services	Argentina/ Panama	12/12/2012	Panel composed	WT/DS453
Measures Affecting the Importation of Animals, Meat and Other Animal Products from Argentina	United States/ Argentina	30/08/2012	Panel composed	WT/DS447
Measures Affecting the Importation of Goods	Argentina/ Japan	21/08/2012	Panel composed	WT/DS445
Measures Affecting the Importation of Goods	Argentina/ United States	21/08/2012	Panel composed	WT/DS444
Measures Affecting the Importation of Goods	Argentina/ European Union	25/05/2012	Panel composed	WT/DS438
Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India	United States/ India	12/04/2012	Panel composed	WT/DS436
Certain Measures Concerning Trademarks, Geographical Indications and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging	Australia/ Honduras	04/04/2012	Panel established, but not yet composed	WT/DS435
Certain Measures Concerning Trademarks and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging	Australia/ Ukraine	13/03/2012	Panel established, but not yet composed	WT/DS434
Measures Concerning the Importation of Certain Agricultural Products	India/ United States	06/03/2012	Panel composed	WT/DS430
Anti-Dumping Measures on Certain Shrimp from Viet Nam	United States/ Viet Nam	22/02/2012	Panel composed	WT/DS429
Appeals to the Appellate Body involving China as a complainant or respondent to the dispute, and/or as an appellant				
Countervailing and Anti-Dumping Duties on Grain Oriented Flat-rolled Electrical Steel from the United States	China/ United States/ China	15/09/2010	Report(s) adopted, with recommendation to bring measure(s) into conformity	WT/DS414
Implementation (Articles 21.5 and 22.6)				
None				

Source: WTO Secretariat.

Table A2. 3 Special Administrative Measures (Negative List) on Foreign Investment Access to the China (Shanghai) Pilot Free Trade Zone (2013)

Category / Sub-category	Specific regulations
Agriculture, forestry, husbandry and fisheries	
Agriculture	1. Planting/breeding for traditional Chinese medicine (equity or cooperative joint ventures only) 2. Breeding of new crops, seeds production (restricted, equity controlled by Chinese party[a]) 3. Crops seeds enterprises (equity or cooperative joint ventures only; minimum registered capital of US$2 million for investing in seeds of grain, cotton and oil crops, with Chinese participation over 50%; minimum registered capital of US$0.5 million for investing in other seeds) 4. Cotton (seed cotton) processing (restricted)
Forestry	5. Processing of logs derived from rare species of woods (restricted, equity or cooperative joint ventures only)
Agriculture, forestry, husbandry, fisheries services	R&D, breeding, cultivation of rare or peculiar species and production of relevant propagation materials including superior genes in crops, husbandry and aquatic sectors; R&D in Genetically Modified Organisms (GMO) and production of genetically modified crop seeds, animal and aquatic breeds (prohibited)
Fisheries	Fishing of aquatic products of sea areas and inland waters within China (prohibited)
Mining	
Coal exploitation and cleaning	Exploitation of special and rare types of coal resources (restricted, equity controlled by Chinese party)
Oil and natural gas exploration	1. Coal bed gas exploration and comprehensive utilization of mine gas (equity or cooperative joint ventures only) 2. Oil and natural gas exploitation (equity or cooperative joint ventures only) 3. Exploitation of low permeability oil and gas reservoirs (fields) (equity or cooperation joint ventures only) 4. Development and application of new technologies to improve oil recovery (equity or cooperative joint ventures only) 5. Development and application of new technologies in oil exploration and exploitation (e.g. geophysical prospecting, drilling, measuring, logging, down-hole operation) (equity or cooperative joint ventures only) 6. Exploitation of unconventional oil resources such as oil shale, oil sands, heavy crude oil and extra-heavy crude oil (equity or cooperative joint ventures only) 7. Exploitation of unconventional natural gas resources such as shale gas, submarine natural gas hydrate (equity or cooperative joint ventures only)
Ferrous metal mining	Pyrites exploitation and ore dressing/beneficiation operations; and ludwigite exploitation (restricted)
Non-ferrous metal mining	1. Szaibelyite exploitation; lithium exploitation and ore dressing/beneficiation operations; and exploitation of noble metals (gold, silver and platinum group) (restricted) 2. Exploitation of tungsten, molybdenum, tin and antimony; and exploitation and ore dressing/beneficiation operations of rare earth, radioactive minerals (prohibited)
Non-metals mining	1. Exploitation of barytes (restricted, equity or cooperative joint ventures only) 2. Exploitation of important non-metal ores such as diamond, high aluminium fire clay, wollastonite, graphite; phosphorite exploitation and ore dressing/beneficiation operations; refinery of salt-lake brine resources; and exploitation of celestite (restricted) 3. Exploitation of marine manganese nodules and sea sands (restricted, equity controlled by Chinese party) 4. Exploitation of fluorite (prohibited)
Ancillary mining activities	Processing of ludwigite ores (restricted)
Manufacturing	
Grain grinding	Processing of rice and flour (restricted)
Plant oil processing	Processing of edible oils such as soy oil, rapeseed oil, peanut oil, cottonseed oil, camellia oil, sunflower oil, palm oil (restricted, equity controlled by Chinese party)
Aquatic product processing	2. Production of biological liquid fuels (ethanol fuel, biodiesel) (restricted, equity controlled by Chinese party)
Other farm and sideline food processing	Corns deep-processing (restricted)
Alcohol manufacturing	Production of yellow rice wine ("huangjiu"), famous and high-quality Chinese spirits (restricted, equity controlled by Chinese party)
Refined tea processing	Processing of green tea with Chinese traditional handicraft and special tea (including famous tea, dark tea, etc.) (prohibited)
Tobacco redrying	Processing and production of leaf tobacco (i.e. threshing and redrying) (restricted)
Other tobacco related products	Processing of cellulose diacetate or tow (equity or cooperative joint ventures only)

Category / Sub-category	Specific regulations
Paper pulp and paper manufacturing	Mainly using overseas timber resources, production of chemical wood pulp with a single production line of 300,000-ton capacity per year or above, and chemical ground wood pulp with a single production line of 100,000-ton capacity per year or above, as well as simultaneous production of high-quality paper or containerboard (equity or cooperative joint ventures only)
Printing	Printing of publications (restricted, equity controlled by Chinese party with minimum registered capital of RMB 10 million)
Reproduction of recorded media	Read-only CD reproduction (equity or cooperative joint ventures only, and equity controlled or dominated by Chinese party)
Arts and crafts products manufacturing	Ivory carving, tiger bone processing, production of bodiless lacquer ware, enamelwork, Chinese art paper and ink ingot (prohibited)
Refined petroleum products manufacturing	Atmospheric and vacuum oil refining below 10 million tons per year; catalytic cracking below 1.5 million tons per year; continuous catalytic reforming below 1 million tons per year (including aromatics extraction); and hydrocracking below 1.5 million tons per year (restricted)
Nuclear fuel processing	Smelting and processing of radioactive minerals (prohibited)
Basic chemical raw materials manufacturing	Production of polyvinyl chloride (through acetylene method only), ethene with limited capacity and post-processing products, calcined soda, caustic soda, sulphuric acid, nitric acid, potassium carbonate and inorganic salt (restricted)
Coating, printing ink, pigment and similar products manufacturing	Production of benzidine, dyes and coatings (restricted)
Synthetic materials manufacturing	Production of butadiene rubber (excluding high cis-butadiene rubber), emulsion polymerized styrene butadiene rubber and thermoplastic styrene-butadiene-styrene rubber (restricted)
Specialty chemical products manufacturing	Production of precursor chemicals (ephedrine, 3,4-methylenedioxyphenyl-2-propanone, phenylacetic acid, 1-phenyl2- propanone, piperonal, safrole, isosafrole and acetic anhydride), hydrogen fluoride and other low-end chlorofluorocarbon or chlorofluoro-compounds, and photosensitive materials (restricted)
Explosive, fire engineering and fireworks manufacturing	Arms and ammunition manufacturing (prohibited)
Manufacturing of active pharmaceutical ingredients for chemical medicines	Production of narcotic drugs and active pharmaceutical ingredients for first class of psychotropic drugs (restricted, equity controlled by Chinese party)
Chemical medicines manufacturing	Production of chloramphenicol, penicillin G, jiemycin, gentamicin, dihydrostreptomycin, amikacin, totomycin, oxytetracycline, mydecamycin, kitasamycin, ciprofloxacin, norfloxacin, ofloxacin, analgin, paracetamol, vitamin B1, vitamin B2, vitamin C, vitamin E, multiplex vitamin preparations and oral calcium preparations (restricted)
Traditional Chinese medicine decoction pieces processing	Processing of materials for traditional Chinese medicines as listed in the *"Regulations on Protection of Wild Medical Resources"* and the *"Catalogue of Rare and Endangered Chinese Plants"* (prohibited)
Traditional Chinese medicine patent drug manufacturing	Processing of traditional Chinese medicines (through steaming, frying, moxibustion, calcination, etc.); and production of traditional Chinese medicine patent drugs with secret formulas (prohibited)
Biopharmaceuticals manufacturing	Production of blood products, vaccines which fall inside the scope of the national immunization plan (restricted)
Synthetic fibre manufacturing	Chemical fibres spinning of conventional chipper, production of viscose fibre (restricted)
Commonly used non-ferrous metal smelting	Smelting of non-ferrous metals (e.g. electrolytic aluminium, copper, lead, zinc) (restricted)
Rare earth metal smelting	1. Smelting of rare non-ferrous metals (e.g. tungsten, molybdenum, tin (excluding tin compounds), antimony (including antimony oxides and antimony sulphides)) (restricted) 2. Rare earth metal smelting and separation (restricted, equity or cooperative joint ventures only)
Material handling/moving equipment manufacturing	1. Production of wheeled or crawler cranes (400 tons and above) (equity or cooperative joint ventures only) 2. Production of wheeled or crawler cranes (below 400 tons) (restricted, equity or cooperative joint ventures only)
Bearings, gears and transmission components manufacturing	Production of all types of ordinary level (P0) bearings and parts (steel balls, retainers), blanks (restricted)

Category / Sub-category	Specific regulations
Mining, metallurgy and construction specialty equipment manufacturing	1. Design of deep water (more than 3,000 metres) marine engineering equipment (equity or cooperative joint ventures only) 2. Manufacturing of marine engineering equipment (including modules) (equity controlled by Chinese party). 3. Manufacturing of bulldozers (less than 320 horsepower), hydraulic excavators (less than 30 tons), wheeled loaders (less than 6 tons), graders (less than 220 horsepower), rollers, fork lifts, electric drive off-highway self-dumping trucks (less than 135 tons), hydraulic mechanical transmission and off-highway self-dumping trucks (less than 60 tons), asphalt concrete mixing and paving equipment and aerial work machinery, garden machinery and equipment, and concrete machinery (pump, mixer vehicle, mixing station, pump vehicle) (restricted)
Chemical, wood, non-metallic processing specialty equipment manufacturing	Manufacturing of large-scale coal chemical equipment (equity or cooperative joint ventures only)
Textiles, clothing and leather processing specialty equipment manufacturing	Manufacturing of equipment in respect of general polyester filament, staple fibre (restricted)
Environmental, social and public services and other specialty equipment manufacturing	Manufacturing of air traffic control system equipment (equity or cooperative joint ventures only)
Automobile manufacturing, modified car manufacturing, low-speed truck manufacturing, trolley car manufacturing, car body shell and trailer manufacturing	Manufacturing of automobiles, special purpose motor vehicles and agricultural transportation trucks (Chinese participation reaching 50% in the equity joint venture). For a joint stock company as a manufacturer of automobiles, special purpose motor vehicles and agricultural transportation trucks, if its shares were sold by a corporate shareholder, the company must still be controlled by one of its Chinese corporate shareholders, whose shareholding must exceed the total shareholdings by foreign corporate shareholders; One foreign investor may establish up to two equity joint ventures to manufacture automobiles in the same category (note: two categories - passenger vehicle and commercial vehicle), but this restriction may not apply to the case of acquiring other domestic automobile manufacturing companies together with its Chinese partners.
Auto component and accessories manufacturing	1. Manufacturing, research and development of automobile electronics: automobile electronic bus-network technology and electronic controller of electric power steering system (equity joint ventures only); embedded electronic integrated system (equity or cooperative joint ventures only) 2. Manufacturing of energy-type power cells of clean energy vehicles (energy density less than 110Wh/kg and cycle life less than 2,000 cycles) (foreign participation within 50%)
Rail and urban transportation equipment manufacturing.	Rail transportation equipment (equity or cooperative joint ventures only): R&D, design and manufacturing of trains used in high-speed railway, passenger dedicated railway line, inter-city railway, main railway line and urban rail transportation and their key components (traction drive system, control system and braking system); R&D, design and manufacturing of passenger service facilities and equipment used in high-speed railway, passenger dedicated railway line, inter-city railway and urban rail transportation, as well as R&D and design work relating to information systems; Rail transportation equipment (equity or cooperative joint ventures only): R&D, design and manufacturing of rails and bridge-related equipment used in high-speed railways, passenger dedicated railway lines and inter-city railways; R&D, design and manufacturing of communications & signals systems of rail transportation; manufacturing of electrified railway equipment; R&D of rail noise and vibration control technology; manufacturing of sewerage disposal equipment for passenger trains, as well as safety monitoring equipment for railway transportation
Vessel and relevant devices manufacturing	1. Design of luxury cruise vessels, design of low- and medium-speed diesel engines for vessels and their components, design and manufacturing of yachts (equity or cooperative joint ventures only) 2. Manufacturing of low- and medium-speed diesel engines and crankshafts for vessels (equity controlled by Chinese party) 3. Design and manufacturing of machinery for ship cabins (majority share of equity controlled by Chinese party) 4. Design and manufacturing of vessels (sub-block included) (restricted, equity controlled by Chinese party)

Category / Sub-category	Specific regulations
Manufacturing of aircraft, spacecraft and relevant equipment	1. Design and manufacturing of civil aircraft for general aviation purposes (equity or cooperative joint ventures only) 2. Design and manufacturing of aero-engines and related components, aviation auxiliary power systems and airborne equipment for civil aviation (equity or cooperative joint ventures only) 3. Design and manufacturing of civil helicopters (<3 tons) (equity or cooperative joint ventures only); design and manufacturing of civil helicopters (less than 3 tons) (equity controlled by Chinese party). 4. Design and manufacturing of civil aircraft for trunk line and feeder line (equity controlled by Chinese party) 5. Manufacturing of ground effect and water surface effect aircraft (equity controlled by Chinese party) 6. Design and manufacturing of unmanned aerial vehicle and aerostat (equity controlled by Chinese party)
Motorcycle manufacturing	1. Manufacturing of motorcycles (Chinese participation reaching 50% in the equity joint venture); For a joint stock company as a manufacturer of motorcycles, if its shares were sold by a corporate shareholder, the company must still be controlled by one of its Chinese corporate shareholders, whose shareholding must exceed the total shareholdings by foreign corporate shareholders; One foreign investor may establish up to two equity joint ventures to manufacture motorcycles, but this restriction may not apply to the case of acquiring other domestic automobile manufacturing companies together with its Chinese partners. 2. Manufacturing of key parts of high engine displacement motorcycles (displacement > 250ml): motorcycle electronic fuel injection technology (equity or cooperative joint ventures only)
Electric motor manufacturing	1. Manufacturing of key supporting machinery used in 1 million kW supercritical thermal power units (equity or cooperative joint ventures only): safety valves, control valves 2. Manufacturing of electrical transmission and transformation equipment (equity or cooperative joint ventures only): amorphous metal transformers, 500+ kV high voltage switch operating mechanisms, arc-control devices, large disc insulators (1000 kV+, 50 Ka+), outlet devices used in transformer of 500 kV+, casing pipes (AC 500, 750, 1000 kV, all type of DC) 3. Manufacturing of electrical transmission and transformation equipment (equity or cooperative joint ventures only): voltage regulation switches (AC500, 750, 1000kv on-load and no-load voltage switch), air core smoothing reactors used in AC power transmission, 800 kV converter valves used in AC power transmission (water cooling equipment, DC field equipment), electric contact material and Pb, Cd free solders in accordance with EU RoHS directive 4. Manufacturing of large pumped-storage aggregate with rated power of 350MW and above (equity or cooperative joint ventures only): accessory equipment like pump turbines and governors, large variable speed reversible pump turbine aggregates, generator-motors and excitation and starter gear
C384-Battery cell manufacturing	Manufacturing of vented lead-acid batteries (i.e. direct acid mist discharge), silver oxide batteries with mercury button, alkaline zinc-manganese batteries with mercury button, paste zinc-manganese battery and Cd-Ni battery (prohibited)
Communications equipment manufacturing	Design and manufacturing of commercial satellites; manufacturing of commercial satellite payloads (equity controlled by Chinese party)
Radio and television equipment manufacturing	Manufacturing of ground satellite TV broadcasting receiving facility and key parts (restricted)
Specialty equipment maintenance	1. Repair of civil aircraft for general aviation, aircraft engine and parts, auxiliary power units (equity or cooperative joint ventures only) 2. Repair of trunk and regional civil airliners (equity controlled by Chinese party) 3. Repair of marine engineering equipment (module included) (equity controlled by Chinese party) 4. Repair of vessels (blocks included) (restricted, equity controlled by Chinese party)
Electricity and heating production and supply	1. Construction and operation of nuclear power stations (equity controlled by Chinese party) 2. Within small power grids, construction and operation of coal-fired condensing power plants with unit capacity of 300,000 kW or below, and coal-fired power of condensing-extraction steam plants with dual-use unit cogeneration, with unit capacity of 100,000 kW or below (restricted) 3. Construction and operation of power grid (restricted, equity controlled by Chinese party), and heat-supply pipe networks in cities with populations greater than 500,000 (restricted, equity controlled by Chinese party) 4. Outside small power grids, construction and operation of coal-fired condensing power plants with unit capacity of 300,000 kW or below, and coal-fired power of condensing-extraction steam plants with dual-use unit cogeneration, with unit capacity of 100,000 kW or below (prohibited)

Category / Sub-category	Specific regulations
Electricity, heating, gas and water production and Supply	
Gas production and supply, water production and supply	Construction and operation of gas-supply, water-supply and drainage pipe network in cities with populations greater than 500,000 (restricted, equity controlled by Chinese party)
Railway, road, tunnel and bridge construction	1. Construction and operation of feeder railways, local railways with relevant bridges, tunnels, ferry facilities and station facilities (equity or cooperative joint ventures only) 2. Construction and operation of railway networks (equity controlled by Chinese party) 3. Comprehensive maintenance of infrastructure of high-speed railways, passenger dedicated railway lines and inter-city railway (equity controlled by Chinese party) 4. Construction and operation of city subways and light railways (equity controlled by Chinese party)
Construction	
Wholesale of agricultural, forestry and husbandry products	Purchase of grain, wholesale and distribution of grain and cotton (restricted)
Wholesale and retail	
Wholesale of food, beverages and tobacco products	1. Wholesale and distribution of vegetable oil, sugar and tobacco (restricted) 2. Wholesale of salt (prohibited)
Wholesale of cultural, sports and appliances products	Qualified service suppliers from Hong Kong, China and Macao, China are allowed to invest in the business of distribution of audio and video products (including post-movie products) in the form of wholly owned enterprise, equity or cooperative joint venture Distribution of audio and video products (excluding movies) for non-Hong Kong, China/Macao, China investors (restricted, cooperative joint ventures only)
Wholesale of mineral products, building materials and chemical products.	Wholesale and distribution of crude oil, chemical fertilizer, pesticide, agricultural film, refined oil products (including bonded oil) (restricted)
Trading brokerage and agency	Auction of cultural relics (prohibited)
General retail	Retail and distribution of cotton, crude oil, pesticide, agricultural film and chemical fertilizer (restricted); chain stores with more than 30 branches and selling goods of different kinds and brands from multiple vendors (equity controlled by Chinese party)
Retail of food, beverage and tobacco products	Retail and distribution of grain, vegetable oil, sugar and tobacco (restricted); chain stores with more than 30 branches and selling goods of different kinds and brands from multiple vendors (equity controlled by Chinese party)
Retail of cultural, sports and appliances products	1. Chain stores retailing books, newspapers and periodicals - *Qualified Hong Kong,China/Macao,China service suppliers:* participation rate for a single investor must be within 65%; - *Investors from other jurisdictions:* no controlling interest is permitted if the number of chain stores is more than 30 2. Qualified service suppliers from Hong Kong, China and Macao, China are allowed to invest in the business of distribution of audio and video products (including post-movie products) in the form of wholly owned enterprise, equity or cooperative joint venture. Distribution of audio and video products (excluding movies) for non-Hong Kong, China/Macao, China investors (restricted, cooperative joint ventures only) 3. Cultural relic shops (prohibited)
Retailing of automobiles, motorcycle, fuel and components	Establishment and operation of gasoline stations (restricted); chain stations with more than 30 branches and selling processed oils of different kinds and brands from multiple vendors (equity controlled by Chinese party)
Stalls, non-store and other retails	Direct selling, mail order selling and online retailing (restricted)
Transport, warehouse and postal service	
Railway passenger transport	Investment in railway passenger transport companies (restricted, equity controlled by Chinese party)
Railway cargo transport	Investment in railway cargo transport companies (restricted, equity or cooperative joint ventures only)
Highway passenger transport	Investment in highway passenger transport companies (restricted; equity joint ventures only; foreign participation within 49%; one of major investors as a Chinese enterprise engaged in the business of highway passenger transport in China for more than five years)
Road cargo transport	Investment in motor transport companies engaged in cross-border road transport business (restricted)
Water passenger transport, Water cargo transport	Investment in water transport companies (restricted, equity controlled by Chinese party); international maritime transport, whether scheduled or not (equity controlled by Chinese party)

Category / Sub-category	Specific regulations
Water transport supporting activities	1. Cargo handling for international maritime freight transport, container freight station and container yard businesses (equity or cooperative joint ventures only) 2. Shipping agency (restricted, equity controlled by Chinese party) 3. Cargo tally (restricted, equity or cooperative joint ventures only)
Air passenger and cargo transport	Investment in air transport companies (equity controlled by Chinese party); operation period within 30 years; a foreign investor's participation (including that of its related parties) within 25% for a public-transport air company whose legal representative has to be a Chinese national
General aviation service	1. Investment in general aviation companies in the sectors of farming, forestry and fisheries (equity or cooperative joint ventures only) 2. Investment in general aviation companies in the sectors of business flights, sightseeing flights and industrial services (equity controlled by Chinese party) 3. Investment in general aviation companies for aviation photography, mining exploration and industry purposes (restricted, equity controlled by Chinese party) 4. Operation period for a general aviation company must be within 30 years and the legal representative must be a Chinese national
Aviation supporting activities	1. Except for qualified Hong Kong, China/Macao, China service suppliers, investors from other jurisdictions must comply with relevant stipulations on foreign participation when they invest in aviation supporting services, and operation period of the invested enterprise must be within 30 years 2. Aircraft repair (with obligation of taking business from international market) and aviation fuel project (equity controlled by Chinese party) 3. Computerized airline reservations system (prohibited for non-Hong Kong, China/Macao, China investors; equity controlled by mainland China party for qualified Hong Kong, China/Macao, China service suppliers) 4. Construction and operation of civil airports (majority share of equity controlled by Chinese party) 5. Air transport agency (equity or cooperative joint ventures only for non-Hong Kong, China/Macao, China investors; a wholly-owned enterprise allowed for qualified Hong Kong, China/Macao, China service suppliers) 6. Investment in air traffic control companies (prohibited)
Warehousing of agricultural products like grain, cotton	Food enterprises which are responsible for operation and management of grain reserves and supplying military food (solely owned or equity controlled by the State)
Basic postal and courier services	Domestic courier business of delivering letters, investment in postal service companies (prohibited)
Information transmission, software and information technology (IT) services	
Telecommunication, Radio and television transmission service, Satellite transmission service	1. Telecommunication; radio, TV and satellite transmission (restricted) 2. Investment in any radio station, TV station, radio and TV channel and transmission network (transmitting station, relay station, broadcast satellite, satellite uplink station, satellite receiving and broadcasting stations, microwave station, monitoring station, and cable TV network) (prohibited)
Internet access and related service, Internet information service, Other Internet service	1. Information service (other than app stores) (foreign participation within 50%) 2. Domestic internet virtual private network (VPN) service (foreign participation within 50%) 3. News websites, online audio-visual programme service, venues to provide Internet access (i.e. cybercafe), and Internet culture-related services (excluding music service) (prohibited) 4.Direct or indirect participation in online game operations (prohibited)
Data processing and storage, I659-Other IT service	1. E-commerce business (foreign participation within 55%); other online data and transaction processing service (foreign participation within 50%) 2. Internet data centre service (prohibited)
Financial services	
Central bank services, monetary banking service, non-monetary banking service, bank supervision service, securities market services, futures market services, securities and futures supervision service, capital investment service, other capital market services, life insurance, property insurance, reinsurance, pension, insurance brokerage and agency, insurance supervision services, other insurance activities, financial trust and management services, holding company services,	1. Investment in banks, finance companies, trust companies and currency brokerage companies (restricted) 2. Investment in insurance companies (including group companies), insurance intermediary institutions (including insurance brokers, agents and assessment companies) and insurance asset management companies (restricted, foreign participation in a life insurance company within 50%) 3. Investment in securities companies (restricted; foreign participation within 49%); initial business scope including underwriting and sponsorship of shares (A shares and foreign invested shares) and bonds (government/corporate bonds), brokerage of foreign invested shares, trading and brokerage of bonds; business scope to be expanded upon application after two-year operation if other conditions are met, securities investment fund management companies (restricted; foreign participation within 49%), securities investment consulting institutions (restricted; foreign participation limited to Hong Kong, China/Macao, China securities firms and within 49%), future companies (restricted; foreign participation limited to qualified Hong Kong, China/Macao, China service suppliers and within 49%) 4. Investment in micro-credit companies and financing guarantee companies must comply with relevant regulations 5. Investment in financial leasing companies (total assets of the foreign investor

Category / Sub-category	**Specific regulations**
payment services by non-financial institutions, financial information services, other unspecified financial services	reaching US$5 million; minimum registered capital of US$10 million for the leasing company; senior management with required expertise and professional experience of no less than three years
Real estate	
Real estate development and operation	1. Development of pieces of land (restricted, equity or cooperative joint ventures only) 2. Construction and operation of luxury hotels, high-class office buildings, international conference and exhibition centres and large wholesale markets for agricultural products (restricted) 3. Construction and operation of villas (prohibited)
Real estate intermediary service	Real estate transaction in secondary market, investment in real estate agents or brokerage firms (restricted)
Leasing and business services	
Leasing of cultural goods and daily consumables	1. Chain stores leasing books, newspapers and periodicals - *Qualified Hong Kong, China/Macao, China service suppliers:* participation rate for a single investor must be within 65%; - *Investors from other jurisdictions:* no controlling interest is permitted if the number of chain stores is more than 30 2. Qualified service suppliers from Hong Kong, China and Macao, China are allowed to invest in the business of leasing audio and video products (including post-movie products) in the form of wholly-owned enterprise, equity or cooperative joint venture. Leasing of audio and video products (excluding movies) for non-Hong Kong, China/Macao, China investors (restricted, cooperative joint ventures only)
Enterprise management services	Requirements to set up an investment company: (1) (i) Total assets of the foreign investor reached US$400 million in the year preceding the application, and such investor has established enterprises in China with US$10 million of paid registered capital; *or* (ii) The foreign investor has established more than ten enterprises in China with US$30 million of paid registered capital; (2) The registered capital of the investment company is not less than US$30 million; and (3) The foreign investor is a foreign company, enterprise or business organization; if there are more than two foreign investors, one of them with greater equity interest must meet the requirement set out in (1)
Legal services	1. Legal consultation (restricted) 2. Foreign law firms can provide legal services only by setting up representative offices
Consultation and investigation	1. Accounting firms (partnerships only) 2. Market research (restricted, equity or cooperative joint ventures only) 3. Social research (prohibited)
Human resources services (HR services)	1. Except for qualified Hong Kong, China/Macao, China service suppliers which are allowed to set up wholly-owned HR agencies, non-Hong Kong, China/Macao, China investors may only set up HR agencies in the form of equity joint ventures with 70% foreign participation or below 2. Minimum registered capital for HR agencies is US$125,000; the foreign investor must be a foreign company, enterprise or other business organization with at least three years of experience in HR agency service
Travel agencies and related services	Overseas travel agencies (excluding tourism business in Chinese Taipei) (equity joint ventures only)
Security services	Security companies engaged in armed security service (foreign participation within 49%)
Other business services	Rating service (restricted)
Scientific research and technology services	
Research and experimental development on natural sciences	Development and application of technologies in respect of human stem cells (prohibited)
Medical research and experimental development	Development and application of gene technologies in diagnosis and medical treatment (prohibited)
Surveying and mapping service	1. Investment in surveying and mapping companies (restricted, equity controlled by Chinese party) 2. Geodetic surveying, marine charting, aerial photography for surveying and mapping, surveying and mapping of territorial boundaries of administrative divisions, compiling topographic and common maps and navigation e-maps (prohibited)
Quality inspection service	1. Investment in companies engaged in certification service for import/export goods (restricted) 2. A foreign investor of a certification institution must be accredited by authorities in its home country and have three years of experience in certification activities

Category / Sub-category	Specific regulations
Geological survey	1. Exploration of coal bed gas, junior exploration of oil and natural gas, exploration of unconventional oil resources (e.g. oil shale, oil sands, heavy crude oil and extra-heavy crude oil, etc.) and unconventional natural gas resources (e.g. shale gas, submarine natural gas hydrate, etc.) (equity or cooperative joint ventures only) 2. Exploration of noble metals (gold, silver and platinum group) and important non-metal ores such as diamond, high-aluminium fire-clay, wollastonite, graphite etc. (restricted) 3. Exploration of barytes (restricted, equity or cooperative joint ventures only) 4. Exploration of special and rare types of coal resources (restricted, equity controlled by Chinese party) 5. Exploration of tungsten, molybdenum, tin, antimony, fluorite, rare earth and radioactive minerals (prohibited)
Other special technology service	Photography service (including special photography such as aerial photography) (restricted, equity joint ventures only)
Management of water conservancy, environment and public facilities	
Water resource management, Natural water collection and resource allocation	Construction and operation of comprehensive hydro projects (equity controlled by Chinese party)
Ecological protection	1. Construction and operation of nature reserves and internationally important wetland (prohibited) 2. Exploitation of wildlife animals and plants originating from China and protected by the State (prohibited)
Education	
Preschool education, Primary education, Secondary education, Higher education, Special education, Vocational and skills training, education support and other forms of education	1. Investment in profit-seeking education and training institutions, profit-seeking vocational skills training institutions (cooperative joint ventures only) 2. Investment in non-profit education institutions (preschool education, secondary vocational education, normal high school education and higher education), non-profit education and training institutions, non-profit vocational skills training institutions (cooperative joint ventures only; no branch is allowed) 3. Investment in compulsory education, as well as special education institutions focusing on military affairs, police training, political, religious and Party schools (prohibited); investment in profit-seeking education institutions (preschool education, secondary vocational education, normal high school education and higher education) (prohibited)
Health and social activities	
Hospitals, medical and health centres, clinics, maternal- and child-care service centres, other health-related activities	Minimum total investment in a medical institution is RMB 20 million; no branch is allowed; maximum operation period is 20 years
Culture, sports and entertainment	
News agency, publishing	1. Investment in news agencies (prohibited) 2. Publishing of books, newspapers and periodicals (prohibited) 3. Production and publishing of audio-visual products and electric publications (prohibited)
R861-Radio, Television, Film and TV programme production, Film and TV programme distribution, Film broadcasting, Audio recording	1. Construction and operation of movie theatres (restricted, equity controlled by Chinese party) 2. Production of radio, TV programmes (works) and films (restricted, cooperative joint ventures only) 3. Investment in production companies of radio and TV programmes (works), film-making companies, film distribution and marketing companies (prohibited)
Literary and artistic creation and performance, arts performance venues, library and archives, Protection of cultural relics and intangible cultural heritage, museums, memorial halls, public, cultural activities, other culture and arts industry	Investment in culture and art industry must comply with relevant regulations
Stadiums	Construction and operation of golf courses (prohibited)
Indoor entertainment activities	Investment in venues to provide Internet access (i.e. cybercafes) (prohibited)
Amusement parks	Construction and operation of large-scale theme parks (restricted)
Betting activities	Gambling (including investment in betting horse racing courses) (prohibited)
Other entertainment activities	Pornographic industry (prohibited)

a "Equity controlled by Chinese party" refers to a situation where Chinese investors' participation rate is 51% or above.

Source: China (Shanghai) Pilot Free Zone online information. Viewed at: http://en.shftz.gov.cn/Special.html.

Table A3. 1 Areas under special customs supervision, 2013

	Legal basis	Main functions	Tax policies
Bonded area	Measures of Customs Supervision and Control over Bonded Areas Decree No. 65 of the General Administration of Customs [1997]	1. Bonded processing; 2. Bonded logistics; 3. International trade; 4. Display of commodities.	1. Goods entering into the bonded area are exempt from taxes (including import duties and VAT); 2.Sales of goods within the Bonded Area are exempt from VAT; 3. Materials to be used as infrastructure , machinery and items imported by enterprises for their own use within the bonded area are exempt from taxes (including tariff and VAT); 4. Import duties and VAT are levied on goods shipped from the Bonded Area into the domestic customs area. If goods are processed in the Bonded Area when shipped to the domestic territory, only the imported materials contained therein will be subject to taxes; 5. VAT levied on domestic goods entering the Bonded Area will be refunded after departure from China's territory.
Export processing zone	Interim Measures of Customs Supervision of Export Processing Zones (amended in 2003) Decree of the State Council [2003] No.389	**Same functions as those of bonded area:** 1. Bonded processing; 2. Bonded logistics; **Differences with bonded area:** 1. International trade is not allowed; 2. Display of commodities is not allowed; **Additional functions:** 1. Repairs and after sale services; 2. R&D activities can be carried out in the export processing zone.	**Same incentives as those granted under the bonded area regime:** 1. Goods entering the export processing zone are exempt from taxes (including import duties and VAT); 2. Sales of goods within the export processing zone are exempted from VAT; 3. Materials to be used as infrastructure , machinery and items imported by enterprises for their own use within the export processing zones are exempt from taxes (including tariff and VAT); **Differences with bonded area:** 1. Import duties and VAT are levied on goods moved from the Export Processing Zone into the domestic customs area based on the value of the goods when being exported from the Export Processing Zone; 2. VAT can be refunded once the domestic goods enter into the export processing zone.
Bonded logistics park	Measures of Customs Supervision of Bonded Logistics Parks (amended in 2010) Decree No. 190 of the General Administration of Customs	**Same functions as those of bonded areas:** 1. Bonded logistics; 2. International trade; 3. Display of commodities; 4. Display of commodities; **Differences with bonded area:** 1. Goods can be transported to specific ports; 2. Repair services; 3. Bonded processing is forbidden.	**Same incentives as those granted under the bonded area regime:** 1. Goods entering into the bonded logistics park are bonded (including tariff and VAT); 2. Trade of bonded goods within the Bonded Logistics Park is exempted from import duties and VAT; 3. Materials to be used as infrastructure, machinery and items imported by enterprises for their own use within the Bonded Logistics Park are exempt from taxes (including import duties and VAT); **Differences with bonded area:** 4. Tariff and VAT are levied on goods moving from the bonded logistics park into the domestic area based on the actual value of the goods when they are being exported from the Bonded Logistics Park); 5. VAT can be refunded once the domestic goods enter into the Bonded Logistics Park.

	Legal basis	Main functions	Tax policies
Bonded port zone	Interim Measures of Customs Supervision of the Bonded Port Zone (amended in 2010) No. 191 Decree of the General Administration of Customs	**Same functions as those of Bonded Area:** 1. Bonded processing; 2. Bonded logistics; 3. International trade; 4. Display of commodities; **Differences compared with bonded area:** 1. It functions as a port; 2. Repairs and after-sale services; 3. R&D activities.	**Same incentives as those granted under the bonded area regime:** 1. Goods entering into the bonded port zone are exempt from taxes (including import duties and VAT); 2. Sales of bonded goods within the Bonded Port Zone are exempted from VAT; 3. Materials to be used as infrastructure, machinery and items imported by enterprises for their own use within the Bonded Port Zone are exempt from taxes (including import duties and VAT); **Differences with bonded area:** 4. Tariff and VAT are levied on goods moving from the Bonded Port Zone into the domestic area based on the actual value of the goods; 5. VAT can be refunded once the domestic goods enter into the Bonded Port Zone.
Comprehensive bonded zone	*Article 45 of the Interim Measures of Customs Supervision of the Bonded Port Zone (amended in 2010)*	**Same functions as those of bonded area:** 1. Bonded processing; 2. Bonded logistics; 3. International trade; 4. Display of commodities; **Differences compared with bonded area:** 1. Repair and after-sale services; 2. R&D activities.	**Same incentives as those granted under the bonded area regime:** 1. Goods entering into the comprehensive bonded zone are exempt from taxes (including import duties tariff and VAT); 2. Trade of bonded goods within the comprehensive bonded zone is exempted from VAT; 3. Materials to be used as infrastructure, machinery and items imported by enterprises for their own use within the Comprehensive Bonded Zone are exempt from taxes (including import duties and VAT). **Differences with the bonded area:** 4. Tariff and VAT are levied on goods moving from the Comprehensive Bonded Zone to the domestic area based on the actual value of the goods; 5. VAT can be refunded once the domestic goods enter into the Comprehensive Bonded Zone.
Others[a]	Measures of the Customs for the Zhuhai-Macao Cross-border Industrial Zone (amended in 2010) Decree No. 189 of the General Administration of Customs	**Same functions as those of bonded area:** 1. Bonded processing; 2. Bonded logistics; 3. International trade; 4. Commodity display; **Differences compared with bonded area:** 1. Port functions; 2. Repair and after-sale services; 3. R&D activities.	**Same incentives as those granted under the bonded area regime:** 1. Goods entering into the Zhuhai Park are bonded (including tariff and VAT); 2. Trade of bonded goods within the Zhuhai Park is exempted from VAT; 3. Infrastructure materials, machinery and self-use items imported by enterprises within the Zhuhai Park are duty free (including tariff and VAT); **Differences compared with bonded area:** 4. Tariff and VAT are levied on goods moving from the Zhuhai Park to the domestic area based on the actual value of the goods; 5. VAT can be refunded once the domestic goods enter the Zhuhai Park.

a Mainly referring to the Zhuhai-Macao Cross-border Industrial Zone, Zhuhai Park.

Source: Information provided by the Chinese authorities.

Table A3. 2 China's MFN applied tariff summary, 2013

	Number of lines	Average (%)	Range (%) MFN applied	Bound	Standard deviation	Nuisance[a] (%)	Duty free (%)
Total	**8,238**	**9.4**	**0-65**	**0-65**	**7.5**	**2.9**	**9.8**
HS 01-24	1,358	13.9	0-65	0-65	10.6	1.3	9.0
HS 25-97	6,880	8.6	0-50	0-50	6.4	3.3	10.0
By WTO category							
WTO agricultural products	1,161	14.8	0-65	0-65	11.3	1.3	8.1
Animals and products thereof	170	12.7	0-25	0-25	7.5	0.0	18.2
Dairy products	21	12.1	2-20	6-20	3.8	4.8	0.0
Fruit, vegetables, and plants	388	13.9	0-30	0-30	7.6	0.0	6.2
Coffee and tea	31	14.9	2-32	8-32	7.2	3.2	0.0
Cereals and preparations	126	23.4	0-65	0-65	20.6	4.8	7.9
Oils seeds, fats, oil and their products	108	10.5	0-30	0-30	7	0.0	12.0
Sugars and confectionary	19	30.9	8-50	8-50	16.7	0.0	0.0
Beverages, spirits and tobacco	62	21.8	0-65	0-65	15	0.0	1.6
Cotton	5	22.0	10-40	10-40	14.7	0.0	0.0
Other agricultural products, n.e.s.	231	12.1	0-38	0-38	7.8	3.0	6.5
WTO non-agricultural products	7,077	8.6	0-50	0-50	6.2	3.2	10.1
Fish and fishery products	306	10.1	0-23	0-23	4.4	1.6	9.2
Minerals and metals	1,235	7.4	0-50	0-50	6.3	7.7	9.5
Chemicals and photographic supplies	1,354	6.3	0-47	0-47	3.9	4.1	5.1
Wood, pulp, paper and furniture	387	4.1	0-20	0-20	3.9	2.3	37.5
Textiles	845	9.6	2-38	2-38	3.9	0.1	0.0
Clothing	299	16.0	14-25	14-25	2.1	0.0	0.0
Leather, rubber, footwear and travel goods	222	12.8	0-25	0-25	6.3	1.4	0.5
Non-electric machinery	1,005	7.5	0-35	0-35	5.1	2.7	13.9
Electric machinery	454	8.3	0-35	0-35	7.9	2.0	26.9
Transport equipment	336	13.3	0-45	0-45	9.5	2.4	0.3
Non-agricultural products, n.e.s.	614	10.9	0-35	0-35	7.6	2.3	14.3
Petroleum	20	4.8	0-9	0-9	3.1	10.0	20.0
By ISIC sector							
ISIC 1 - Agriculture, hunting and fishing	634	10.8	0-65	0-65	9.9	1.7	20.7
ISIC 2 - Mining	123	1.5	0-5	0-8	1.7	17.9	43.1
ISIC 3 - Manufacturing	7,480	9.8	0-65	0-65	7.2	2.8	8.3
Manufacturing excluding food processing	6,689	8.7	0-50	0-50	6.3	3.0	9.1
ISIC 4 - Electrical energy	1	0.0	0	0	0.0	0.0	100.0
By stage of processing							
First stage of processing	1,142	9.4	0-65	0-65	9.7	3.5	20.1
Semi-processed products	2,531	7.0	0-65	0-65	5.6	5.3	5.6
Fully processed products	4,565	10.8	0-65	0-65	7.4	1.5	9.6
By HS section							
01 Live animals and products	488	11.5	0-25	0-25	6.1	1.0	13.3
02 Vegetable products	510	14.1	0-65	0-65	12.9	1.8	11.0
03 Fats and oils	56	12.6	4-30	5-30	5.8	0.0	0.0
04 Prepared food, beverages and tobacco	304	17.5	0-65	0-65	11.5	1.3	0.3
05 Mineral products	201	2.8	0-11	0-12	2.7	13.9	30.3
06 Chemicals and products thereof	1,282	6.4	0-50	0-50	4.8	5.2	5.4
07 Plastics, rubber, and articles thereof	271	9.3	0-25	0-25	4.4	1.1	0.4
08 Raw hides and skins, leather, and its products	106	12.1	3-23	5-23	5.5	0.0	0.0
09 Wood and articles of wood	207	4.4	0-20	0-20	4.3	1.0	36.2
10 Pulp of wood, paper and paperboard	161	5.2	0-7.5	0-7.5	3.1	4.3	21.7
11 Textiles and textile articles	1,141	11.3	1-40	3-40	5.0	0.2	0.0
12 Footwear, headgear, etc.	71	17.9	10-25	10-25	5.8	0.0	0.0
13 Articles of stone, plaster, cement	194	12.7	0-28	0-28	5.3	1.0	0.5
14 Precious stones and metals, pearls	87	10.0	0-35	0-35	12.7	0.0	40.2

	Number	Average	Range (%)		Standard	Nuisance[a]	Duty free
15 Base metals and articles thereof	764	7.0	0-30	0-30	4.3	7.2	3.3
16 Machinery, electrical equipment, etc.	1,496	7.8	0-35	0-35	6.4	2.4	19.0
17 Transport equipment	351	13.1	0-45	0-45	9.4	3.4	0.3
18 Precision equipment	334	9.4	0-30	0-30	6.4	3.3	10.5
19 Arms and ammunition	21	13.0	13-13	13-15	0.0	0.0	0.0
20 Miscellaneous manufactured articles	184	10.8	0-25	0-25	8.9	0.0	34.2
21 Works of art, etc.	9	7.6	0-14	0-14	5.2	0.0	22.2

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

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

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

Table A3. 3 Tax preferences at the central level

Government tax preference policies	
Enterprise income tax (the income tax is 25%)	1. Enterprises that plant flowers, spices, teas and other beverages should pay income tax of 12.5% (half the actual rate). Sea farming and inland farming should pay income tax of 12.5% (half the actual rate). Enterprises engaged in agriculture, forestry, animal husbandry and fisheries are exempt from income tax or are granted a preferential income tax rate.
	2. Enterprises engaged in projects stipulated in the "Catalogue of Public infrastructure projects eligible for preferential enterprise income tax treatment", including ports and harbours, airports, railways, highways, public transportation, electric power and water conservancy, are exempt from income tax from the first to the third year that income starts to be generated, and the income tax from the fourth to the sixth year would be 12.5% (half of the actual rate).
	3. Enterprises that undertake environmental and energy conservation projects, including public sewage treatment, public garbage disposal, methane comprehensive exploitation and desalination of sea water, are exempt from income tax from the first to the third year that income starts to be generated, and the income tax from the fourth to the sixth year would be 12.5% (half the actual rate).
	4. Income generated by enterprises that transfer qualified technology i.e. patented technologies transferred by resident enterprises, copyrights of computer software, integrated circuit layout design rights, new plant varieties, new biological medicinal products, and other technologies determined by the Ministry of Finance and the State Administration of Taxation. The first RMB 5 million of income generated is exempt from income tax and income that exceeds RMB 5 million will be taxed at the rate of 12.5% (half the actual rate).
	5. Small-scale enterprises with minimal profits[a] that conduct business in the non-restricted industries and satisfy the following conditions are subject to the applicable enterprise income tax rate of 20%: (i) Industrial enterprises with an annual taxable income not exceeding RMB 300,000, fewer than 100 employers, and total assets not exceeding RMB 30 million. (ii) Other enterprises, with annual taxable income not exceeding RMB 300,000, with fewer than 80 employers, and total assets not exceeding RMB 10 million.
	6. High and new technology enterprises that have been registered in China for one or more years which require key state support and possess core proprietary intellectual property rights, engage in business involving products (services) that fall into the scope specified in the Advanced and New Technology Areas Eligible for the Key Support of the State, and with R&D expenses, income of high and new technological products and number of R&D personnel reaching a certain proportion, can be recognized as high and new technology enterprises and are subject to an enterprise income tax rate of 15%.
	7. Key software enterprises and integrated circuit enterprises within the "national layout plan" are subject to an enterprise income tax rate of 10%.
	8. Where non-resident enterprises have not set up institutions or establishments in China, or where institutions or establishments are set up but there is no actual relationship with the income obtained by the institutions or establishments set up by such enterprises, they pay a preferential enterprise income tax of 10% on income originating in China.
	9. Research and development fees incurred by enterprises in the development of new technology, new products and new skills can be deducted from the taxable income at 150% of the intangible assets cost; 100% of the wages paid by enterprises for hiring disabled and other personnel can be deducted from the taxable income.
	10. Venture investment enterprises that engage in equity investment in medium and small high-tech enterprises (not listed in domestic or foreign stock markets) for more than two years, may deduct 70% of the invested capital from the taxable income in the second year. If the taxable income is less than 70% of the invested capital, the deduction may take place in the following tax year.
	11. The income obtained by enterprises from the production of products in line with state industrial policies through comprehensive use of materials stipulated in the "Category of comprehensive use of resources for preferential enterprise income tax treatment" may be deducted from the taxable income by 90%.
	12. 10% of cost of the investment made by enterprises in special facilities for environmental protection, energy and water conservation and safe production which are listed in the: "Environmental special facilities enterprise income tax preferential category", "Water and energy conservation special facilities enterprise income tax preferential category" and "Safety production special facilities enterprise income tax preferential category" can be deducted from the taxable income. If the taxable income is not sufficient, the deduction can be made in the next five fiscal years.

Government tax preference policies	
Other tax exemptions	1. Imported items to be used in: the encouraged industries listed in the "Category for the Guidance of Foreign Investment Industries", the foreign investment projects that meet the requirement of the "Category of Priority Industries for Foreign Investment in the Mid-Western Region", and the domestic funded projects supported by the county, are exempt from import duties. Exception applies for the commodities listed in the "Category of non-tax-exempted imported items under foreign investment projects"[b] and the "Category of non-tax-exempted imported items under domestically funded projects"[c].
	2. For encouraged industries (including those that meet the requirement of the "Category of Priority Industries for Foreign Investment in the Mid-Western Region"), foreign investment enterprises, foreign-invested research centres, advanced technical and export product type of foreign investment enterprises, the import of the equipment to be used in the project and technology, components and spare parts are exempt from import duties if imports are within the originally approved business scope and the purchase is funded by the project, and the equipment and the supported technology, components and spare parts cannot be produced in China.
	3. Imports of equipment to be used by foreign-invested enterprises for the production of items listed in the "National high tech products category", along with the imported technology and supporting components and spare parts, are exempt from import duties and other related import taxes.[d]
	4. For the advanced technology listed in the "National high-tech products category"[d] imported by foreign investment enterprises, the software fees paid overseas are exempted from import duties and other import-related tax.[e]
	5. The VAT on the products and services produced with "integrated" utilization of resources (e.g. electric power generated from urban waste and renewable water) is subject to such preferential taxation policies as exemption, refund upon collection or refund after collection.
Several polices on software and integrated circuits	1. Certified domestic new software enterprises and integrated circuit design enterprises, from the first profit earning year, are exempted from enterprise income tax in the first and second year; the tax is collected at 50% from the third to the fifth year.
	2. For an integrated circuit enterprise with investment of more than RMB 8 billion or a bandwidth of an integrated circuit of less than 0.25 um, if the business period exceeds 15 years, from the first profit earning year, it is exempted from enterprise income tax from the first to the fifth year and 50% of the tax is collected from the sixth to the tenth year.
	3. For an integrated circuit enterprise with bandwidth of integrated circuit equal to or less than 0.8 um, after certification, from the profit earning year, it is exempted from enterprise income tax in the first and the second year and 50% tax is collected from the third to the fifth year.
	4. For software purchased by enterprises and public institutions with the approval of the tax authorities, its depreciation years may be shortened to a minimum of 2 years, if software is deemed a fixed or intangible asset from an accounting point of view.
	5. For the production equipment of enterprises manufacturing integrated circuits, with the approval of the tax authorities, its depreciation years may be shortened appropriately and the minimum is 3 years.
	6. Qualifying software and integrated circuit manufacturing enterprises can deduct the cost of training their staff from the taxable income.

a The definition of small-scale enterprises with minimal profits can be found in Article 92 of the Implementing Regulations of the PRC Enterprise Income Tax Law.

b Customs Notice No. 65 of 5 September 2008. Viewed at: http://www.customs.gov.cn/publish/portal0/tab399/info125825.htm.

c Ministry of Finance Notice No. 83 of 24 December 2012. Viewed at: http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201212/t20121231_723618.html.

d For the list of products under the "National high-tech products category" please refer to: http://www.most.gov.cn/tztg/200612/t20061220_38987.htm.

e These polices are based on: "Regulation of the State Council on the adjustment of the imported and exported equipment tax policy" (No. [1997]37); "Views of the Committee of Economic Trade for Foreign Countries on further Encouraging Foreign Investment"(No. [1999]73); "National medium- and long-term planning for science and technology development outline (2006-2020)" (No. [2005]44).

Source: Viewed at: http://en.xasourcing.gov.cn/swj/policys/localpolicy/local0013.html; and information provided by the Chinese authorities.

Table A3. 4 Support programmes notified to the WTO

	Programme	Forms of subsidy	Period / Validity[a]
1	Preferential tax policies for foreign-invested enterprises	Preferential tax treatment	Valid until 1 January 2008
2	Preferential tax policies for foreign-invested export enterprises	Preferential tax treatment	Valid until 1 January 2008
3	Preferential tax policies for foreign-invested enterprises engaged in agriculture, forestry or animal husbandry and foreign-invested enterprises established in remote underdeveloped areas	Preferential tax treatment	Valid until 1 January 2008
4	Preferential tax policies for foreign-invested enterprises engaged in energy, transportation infrastructure projects	Preferential tax treatment	Valid until 1 January 2008
5	Preferential tax policies for Chinese-foreign equity joint ventures engaged in port and dock construction	Preferential tax treatment	Valid until 1 January 2008
6	Preferential tax policies for advanced technology enterprises with foreign investment	Preferential tax treatment	Valid until 1 January 2008
7	Preferential tax policies for enterprises with foreign investment in the border cities	Preferential tax treatment	Valid until 1 January 2008
8	Preferential tax policies for enterprises with foreign investment recognized as high- or new-technology enterprises established in the State high- or new-technology industrial development zones	Preferential tax treatment	Valid until 1 January 2008
9	Preferential tax policies for enterprises recognized as high- or new-technology enterprises established in the State high-or new-technology industrial development zones	Preferential tax treatment	Valid until 1 January 2008
10	Preferential tax policies for high- or new-technology enterprises	Preferential tax treatment	In effect
11	Preferential tax policies for enterprises with foreign investment established in Special Economic Zones (excluding Shanghai Pudong area)	Preferential tax treatment	Valid until 1 January 2008
12	Preferential tax policies for enterprises with foreign investment established in the costal economic open areas and in the economic and technological development zones	Preferential tax treatment	Valid until 1 January 2008
13	Preferential tax policies for enterprises with foreign investment established in Pudong area of Shanghai	Preferential tax treatment	Valid until 1 January 2008
14	Preferential tax policies for enterprises with foreign investment established in the Three Gorges of Yangtze River Economic Zone	Preferential tax treatment	Valid until 1 January 2008
15	Preferential tax policies in the western regions	Preferential tax treatment	Partially in effect
16	Preferential tax policies for enterprises in Binhai New Area of Tianjin	Preferential tax treatment	Valid until 1 January 2008
17	Preferential tax policies for enterprises established in poverty stricken areas	Preferential tax treatment	Valid until 1 January 2008
18	Fiscal fund to alleviate poverty	Financial appropriations	In effect
19	Preferential tax treatment for public infrastructure projects that are particularly supported by the State	Preferential tax treatment	In effect
20	Preferential tax treatment for projects for environmental protection, water and energy conservation	Preferential tax treatment	In effect
21	Preferential tax policies for enterprises which utilise waste materials	Preferential tax treatment	Valid until 1 January 2008
22	Preferential tax treatment for building material products produced with integrated utilization of resources	Preferential tax treatment	In effect
23	Preferential tax treatment for building material products produced with integrated utilization of resources	Preferential tax treatment	Modified by Circular [2008] No. 156
24	Preferential tax treatment for products produced with integrated utilization of resources	Preferential tax treatment	Modified by Circular [2008] No. 156
25	Preferential tax treatment for renewable resources	Preferential tax treatment	Abolished by Circular [2008] No. 157
26	Special fund for the industrialization of wind power equipment	Financial appropriations	Valid until end 2009
27	Preferential tax policies for Clean Development Mechanism	Preferential tax treatment	In effect
28	Preferential tax policies for enterprises making little profit	Preferential tax treatment	Valid until 1 January 2008
29	Preferential tax policies for enterprises making little profit	Preferential tax treatment	In effect
30	Preferential tax policies for township enterprises	Preferential tax treatment	Valid until 1 January 2008
31	Preferential tax policies for enterprises that employ disabled people	Preferential tax treatment	Abolished by Circular Cashui [2007] No. 92
32	Preferential tax policies for enterprises that employ disabled people	Preferential tax treatment	In effect
33	Preferential tax policies for enterprises that employ disabled people	Preferential tax treatment	Valid until 1 January 2008
34	Preferential tax policies for enterprises that employ disabled people	Preferential tax treatment	In effect

	Programme	Forms of subsidy	Period / Validity[a]
35	Preferential tax treatment for imported products exclusively used by disabled people	Preferential tax treatment	In effect
36	Preferential tax treatment for products for disabled people	Preferential tax treatment	In effect
37	Preferential tax treatment for enterprises producing products exclusively used by disabled people	Preferential tax treatment	In effect
38	Preferential tax policies for enterprises which provide employment for unemployed people	Preferential tax treatment	Valid until 1 January 2008
39	Preferential tax policies for scientific research institutions undergoing transformation	Preferential tax treatment	Valid until 1 January 2008
40	Preferential tax policies for the research and development of enterprises	Preferential tax treatment	Valid until 1 January 2008
41	Preferential tax policies for the research and development of enterprises	Preferential tax treatment	Valid until 1 January 2008
42	Preferential tax policies for the research and development of enterprises	Preferential tax treatment	In effect
43	Preferential tax policies for enterprises transferring technology	Preferential tax treatment	Valid until 1 January 2008
44	Preferential tax policies for enterprises transferring technology	Preferential tax treatment	In effect
45	Research and development fund for industrial technologies	Financial appropriations	In effect
46	Fund to support technological innovation by small and medium-sized enterprises (SMEs)	Financial appropriations	Valid until end of 2013
47	Development fund for SMEs	Financial appropriations	In effect
48	Special fund for establishment of service system for SMEs	Financial appropriations	In effect
49	Fund for international market exploration by SMEs	Financial appropriations	Valid until end of 2013
50	Fund for optimizing the import and export structure of mechanical and electrical products as well as high-tech products	Financial appropriations	Invalid (as per MOFCOM Announcement [2010] No. 9)
51	Fund for promoting trade in agricultural, light industry and textile products	Financial appropriations	Invalid (as per MOFCOM Announcement [2010] No. 109)
52	Fund for promotion of coordinated development of foreign trade and economic relations among regions	Financial appropriations	In effect
53	Preferential tax policies for key leading enterprises engaged in agricultural industrialization	Preferential tax treatment	Valid until 1 January 2008
54	Preferential tax policies for enterprises engaged in projects of preliminary processing of agricultural, forestry, animal and fisheries products	Preferential tax treatment	In effect
55	Fund for specialized economic cooperatives of farmers	Financial appropriations	In effect
56	Fund for subsidizing the training of rural migrant labour force	Financial appropriations	In effect
57	Fund for training of young farmers in science and technology	Financial appropriations	Invalid (as per MOFCOM Decree No. 63 of 22 February 2011)
58	Fund for popularization of agricultural technologies	Financial appropriations	In effect
59	Fund for subsidizing transformation of agricultural technology	Financial appropriations	In effect
60	Subsidy for promoting superior strains and seeds	Financial appropriations	In effect
61	Subsidy for purchasing agricultural machinery and tools	Financial appropriations	In effect
62	Comprehensive subsidies for agricultural inputs	Financial appropriations	In effect
63	Direct subsidy to farmers	Financial appropriations	In effect
64	Fund for agricultural comprehensive development	Financial appropriations	In effect
65	Fund subsidizing agricultural industrialization and agricultural products processing	Financial appropriations	Invalid
66	Fund for interest discount on loans for the purpose of agricultural water-saving irrigation	Financial appropriations	In effect
67	Subsidy for national key construction projects on water and soil conservation	Financial appropriations	In effect
68	Preferential tax policies for the enterprises engaged in forestry	Preferential tax treatment	Valid until 1 January 2008
69	Subsidy for prevention and control of pests and disease in forestry	Financial appropriations	In effect
70	Subsidy for grass seed sowing by airplanes	Financial appropriations	In effect

	Programme	Forms of subsidy	Period / Validity[a]
71	Preferential tax policies for enterprises of grain or oil reserves	Preferential tax treatment	In effect
72	Preferential tax policies for the imports of China Grain Reserves Corporation for the purpose of rotation of grain reserves	Preferential tax treatment	Replaced (as per Circular Caiguanshi [2011] No. 30)
73	Preferential tax policies for relief grain and disaster relief grain, compensation grain for returning cultivated land to forests and to grassland, and grain rations for migrants from the reservoir areas	Preferential tax treatment	In effect
74	Preferential tax treatment for poultry industry	Preferential tax treatment	Invalid (as per MOF Decree 62 of 21.02.2011)
75	Interest discount for poultry industry	Financial appropriations	In effect
76	Preferential tax treatment for tea sold in the border areas	Preferential tax treatment	Modified by Circular Caishui [2011] No. 89
77	Preferential tax treatment for imported products for the purpose of replacing the planting of poppies	Preferential tax treatment	In effect
78	Preferential tax policies on imports of seeds (seedlings), breeding stock (fowl), fish fries (breeds) and non-profit-making wild animals and plants kept as breeds during the period of the "Tenth Five-Year Plan"	Preferential tax treatment	Invalid since 1 January 2006
79	Preferential tax policies on imports of seeds (seedlings), breeding stock (fowl), fish fries (breeds) and wild animals and plants kept as breeds during the period of the "Eleventh Five-Year Plan"	Preferential tax treatment	Invalid since 1 January 2011
80	Preferential tax treatment for endangered wild animals and plants as well as their products returned by foreign governments, by the government of Hong Kong, China or the government of Macao, China to China	Preferential tax treatment	In effect
81	Preferential tax policies for foreign invested enterprises and foreign enterprises which have establishments or premises in China and are engaged in production or business operations purchasing domestically produced equipment	Preferential tax treatment	Invalid (as per Circular CaishuiFa [2008] No. 52)
82	Preferential tax policies for domestic enterprises purchasing domestically produced equipment for technology upgrading purposes	Preferential tax treatment	Invalid (as per Circular CaishuiFa [2008] No. 52)
83	Exemption from tariffs and import VAT for imported technologies and equipment	Preferential tax treatment	In effect
84	Subsidy for scrapping old vehicles	Financial appropriations	Updated (as per Circular Caishui [2012] No. 27)
85	Preferential tax policies for the integrated circuit industry	Preferential tax treatment	In effect
86	Fund for research and development of the integrated circuit industry	Financial appropriations	In effect
87	Fund for development of electrical information industry	Financial appropriations	In effect
88	Fund for high technology R&D for packaging industry	Financial appropriations	In effect
89	Preferential tax treatment for raw copper materials	Preferential tax treatment	Invalid since 1 January 2006 (as per MOF Decree 48 of 2005)
90	Preferential tax treatment for casting and forging products	Preferential tax treatment	Invalid since 1 January 2009 (as per MOF Decree 48 of 2008)
91	Preferential tax treatment to dye products	Preferential tax treatment	Invalid since 1 January 2009 (as per MOF Decree 48 of 2008)
92	Preferential tax treatment for numerically controlled machine tool products	Preferential tax treatment	Invalid since 1 January 2009 (as per Circular Caishui [2009] No. 138)
93	Preferential tax treatment for anti-HIV-AIDS medicine	Preferential tax treatment	In effect

a Based on information provided by the authorities of China.

Source: WTO Secretariat based on documents G/SCM/N/155/CHN and G/SCM/N/186/CHN, 21 October 2011, and information provided by the authorities of China.

Table A3. 5 Selected foreign investment incentives[a]

Incentive	Form of Subsidy[b]	Description	Status[b]
Tianjin Foreign Investment Incentives			
Financial Institutions	..	The city government offers significant subsidies and other incentives for the following investment activities: registered capital investment greater than RMB 100 million, employee housing construction, or establishment of Chinese residence by senior management.	..
Establishment of Headquarters/Regional Headquarters	..	As an incentive to relocate a company's headquarters to Tianjin or establish a regional headquarters in Tianjin, the city government offers the following subsidies: registered capital reimbursement and employee housing construction subsidies.	..
Advanced Agricultural Technology Companies	..	The city government offers significant subsidies and investment incentives for the following investment activities: agricultural technology R&D and other agricultural technology industries.	..
Scientific and Technological R&D	..	The city government offers significant subsidies and other incentives for the following investment activities: establishment of an R&D centre, advanced technical industrialized projects and the creation of locally designed products.	..
Sino-Foreign Joint Ventures	..	The city government offers significant subsidies and financial incentives specifically for incorporated joint ventures between Chinese and foreign partners.	..
Shanghai Foreign Investment Incentives			
Investing in the Waigaoqiao Free Trade Zone	..	All imports and exports from the WFTZ are exempt from customs duty and value-added tax.	..
Computer Technology Enterprise	..	Extensive incentives are available for companies investing in R&D, or in Software Development, Integrated Circuit Chip Manufacturing and Information Security Industries.	..
New and Advanced Technology Enterprise	..	Shanghai Government offers tax subsidies and monetary awards/funding for: investment by private equity groups with over 70 % of total capital in Shanghai advanced technology industry.	..
Establishing Headquarters or Regional Headquarters	..	As an incentive to relocate a company's headquarters to Shanghai or establish a regional headquarters, the municipal government offers significant subsidies provided the regional headquarters meets the following criteria: total net assets of the parent company greater than US$ 400 million, an investment in China greater than US$ 30 million, and an already established multinational network.	..
Priority Industries	..	Significant subsidies and investment incentives for "priority industries": information and consultation services, real estate development, design, and construction, distribution, foreign trade, logistics and transportation, iron and steel manufacturing, automobile, shipbuilding and equipment manufacturing, and chemical/petrochemical industries.	..
Shenzhen Investment Incentives			
High-Tech Enterprise	..	As an incentive to encourage high-tech development in Shenzhen, the municipal government offers tax subsidies for the following investment activities: development of high-tech R&D programmes and institutions, construction of laboratories, contribution to scientific and technological research, development of local products, approved-product creation, and capital investment in existing high-tech industry. In addition, the Shenzhen Government offers various incentives to the following high-tech industry areas: automobile enterprise, software, and the information service industry.	..

Incentive	Form of Subsidy[b]	Description	Status[b]
Biological Industry	..	The municipal government offers significant subsidies for the following investment activities: creation of R&D centres/engineering centres/public technological service platforms, participation in international and domestic standardization activities, development of patent pools, investment exceeding RMB 200 million by bio-industrial programmes, capital market financing, and organizing and participating in exhibitions.	..
Modern Logistics Industries	..	As an incentive to establish foreign enterprises in the modern logistics industry, the municipal government offers significant subsidies and investment incentives in the following areas: construction of regional distribution/allocation/procurement centres, trucking enterprise, air cargo and passenger airlines, and other logistical industries.	..
Service Outsourcing	..	As an incentive to encourage the outsourcing of service industry to Shenzhen, the municipal government offers significant subsidies and investment incentives for the following investment activities: establishment of approved high-tech service enterprises, outsourcing of training organizations to Shenzhen, installation of internationally certified information service enterprises, and the employment of Chinese nationals in outsourced enterprises.	..
Financial Enterprise	..	The municipal government offers significant subsidies and investment incentives for the following groups of financial enterprises: enterprises with headquarters in Shenzhen, branch offices in Shenzhen, financial supporting services with more than 100 employees, insurance brokers and agencies, financial training organizations, enterprises engaged in financial restructuring, and enterprises engaged in renting or purchasing office space in Shenzhen for the first time.	..
Establishment of Headquarters or Regional Headquarters	..	As an incentive to relocate a company's headquarters to Shenzhen or establish a regional headquarters in Shenzhen, the municipal government offers significant subsidies for the following investment activities: purchase/rental of office space, establishment of headquarters according to Shenzhen Municipal Government industrial clustering plans and master urban plans, creation of public use facilities, and the establishment of comprehensive headquarters with registered capital exceeding RMB 200 million.	..
Cultural Industry	..	As an incentive to establish enterprise in the cultural industry of Shenzhen, the municipal government offers significant subsidies and investment incentives for any enterprise that assists in the advancement of the culture of Shenzhen such as: media enterprises, institutions of higher learning, enterprises exporting cultural products, or those that engage in the promotion of R&D achievements in cultural fields.	..

.. Not available.

a The authorities could not verify this information.
b Information not provided by the authorities.

Note: Many incentives must be repaid at the provincial and/or city level in the event that the company leaves the region. National incentives are not typically subject to these restrictions.

Source: Viewed at: http://understand-china.com/manufacturing/tianjin-investment-incentives-2; http://understand-china.com/manufacturing/shanghai-investment-incentives; and http://understand-china.com/manufacturing/shenzhen-investment-incentives.

Table A3. 6 Support to fisheries[a]

Programme	Type of Support	Source	Beneficiary
China Pelagic Fisheries Association and China Minsheng Bank signed an agreement on strategic financial cooperation in Beijing on 7 January 2013 to improve equipment, production efficiency, technology and comprehensive development capacity in the pelagic fisheries sector. Major fish stocks affected by the programme include: all pelagic fish species. Year established: 2013 Department responsible for the programme: ..	Capital and infrastructure programmes Other capital and infrastructure support programmes: public-private partnership to improve infrastructure	Ministry of Agriculture. Viewed at: http://english.agri.gov.cn/news/201301/t20130115_9240.htm	Overall fisheries
The Chinese Government provides corporate tax relief in the form of income tax exemptions to Chinese domestically funded deep water fishing enterprises. This exemption means that they are exempt from paying corporate income tax (currently levied at 25%) until the end of 2015. Generally, all fisheries projects that attract investment to bolster the fishing industry are exempted or given a 50% reduction of corporate income tax. This is applied as long as the enterprise is engaged in the fishing project. Major fish stocks affected by the programme include: all fisheries. Year established: 1997 Department responsible for the programme: Department of Finance ("MOF") and the State Administration of Taxation ("SAT").	Tax preferences and insurance support programmes Income tax deferral - for fishermen	Pacific Islands Forum Fisheries Agency (FFA). Viewed at: http://www.ffa.int/system/files/FFA%20Secretariat%20Paper%20-%20Fisheries%20Subsidies%20and%20Incentives%20provided%20by%20the%20PRC%20to%20its%20DWF%20Industry.pdf	Fisheries enterprises
Tax incentives are provided to shipyards in China that build and export fishing vessels. The incentives are in the form of a five-year tax holiday and a five-year half-tax policy on the construction of the shipyard and export tax rebates. In addition to preferential taxes preferential credit conditions are provided to shipyards. Year established: .. Major fish stocks affected by the programme include: all fisheries. Department responsible for the programme: ..	Tax preferences and insurance support programmes Favourable tax rates on specific inputs or outputs	Pacific Islands Forum Fisheries Agency (FFA). Viewed at: http://www.ffa.int/system/files/FFA%20Secretariat%20Paper%20-%20Fisheries%20Subsidies%20and%20Incentives%20provided%20by%20the%20PRC%20to%20its%20DWF%20Industry.pdf	Ship manufacturers
Preferential import duties on imported equipment used for refitting, building and renovating vessels fitted with ultra-low temperature freezers including tuna longliners. Year established: .. Major fish stocks affected by the programme include: tuna. Department responsible for the programme: ..	Tax preferences and insurance support programmes Favourable tax rates on specific inputs or outputs	Pacific Islands Forum Fisheries Agency (FFA). Viewed at: http://www.ffa.int/system/files/FFA%20Secretariat%20Paper%20-%20Fisheries%20Subsidies%20and%20Incentives%20provided%20by%20the%20PRC%20to%20its%20DWF%20Industry.pdf	Fisheries enterprises

Programme	Type of Support	Source	Beneficiary
Accelerated depreciation for fishing vessels to encourage the modernization of fishing fleets. Major fish stocks affected by the programme include: all fisheries. Year established: 2001 Department responsible for the programme: ..	Tax preferences and insurance support programmes Accelerated depreciation - for taxation of fishing vessels and gear	Pacific Islands Forum Fisheries Agency (FFA). Viewed at: http://www.ffa.int/system/files/FFA%20Secretariat%20Paper%20-%20Fisheries%20Subsidies%20and%20Incentives%20provided%20by%20the%20PRC%20to%20its%20DWF%20Industry.pdf	Fisheries enterprises
Government investment to develop new fisheries and technology. Major fish stocks affected by the programme: all fisheries. Year established: 2001 Department responsible for the programme: ..	Fisheries management and conservation programmes R&D - to develop new fisheries technologies	Pacific Islands Forum Fisheries Agency (FFA). Viewed at: http://www.ffa.int/system/files/FFA%20Secretariat%20Paper%20-%20Fisheries%20Subsidies%20and%20Incentives%20provided%20by%20the%20PRC%20to%20its%20DWF%20Industry.pdf	Overall fisheries
Fuel subsidies for fishermen and fisheries enterprises that use motorized fishing vessels for near-shore and inland fishing and aquatic production. Subsidies for deep-water fishing fleets are based on annual fluctuations in oil prices and are paid retrospectively. Major fish stocks affected by the programme include: all fisheries. Year established: 2006 Department responsible for the programme: Ministry of Agriculture	Tax preferences and insurance support programmes Fuel tax exemption - for fishing vessels	Pacific Islands Forum Fisheries Agency (FFA). Viewed at: http://www.ffa.int/system/files/FFA%20Secretariat%20Paper%20-%20Fisheries%20Subsidies%20and%20Incentives%20provided%20by%20the%20PRC%20to%20its%20DWF%20Industry.pdf	Fishermen and enterprises
The National Fisheries Technical Extension Station was established in 1991 in order to promote the development of fisheries through the introduction of advanced technologies and scientific expertise. There are extension agencies throughout the whole economy: in 2004, there were 13,514 fisheries technical extension services, 10,000 more than in 1999. Major fish stocks affected by the programme include: all fisheries. Year established: 1991 Department responsible for the programme: ..	Fisheries management and conservation programmes R&D - to develop new fisheries technologies	European Parliament. Viewed at: http://www.europarl.europa.eu/meetdocs/2009_2014/documents/pech/dv/chi/china.pdf	Fishermen
Project to renovate outdated fishing vessels to implement domestic safety standards and reduce energy consumption. Major fish stocks affected by the programme include: all fisheries. Year established: 2012 Department responsible for the programme: ..	Capital and infrastructure programmes Fleet renewal and modernization	*China Daily*. Viewed at: http://www.chinadaily.com.cn/m/fujian/pingtan/2013-03/12/content_16302839.htm	Fisheries enterprises

Programme	Type of Support	Source	Beneficiary
Programme to improve the efficiency of aquaculture and coastal fisheries enterprises. Support is for a wide range of activities and includes direct assistance for investment. Support to enterprises is limited to a maximum of one-third of the cost of the new investment. Major fish stocks affected by the programme include: Not specified Year established: 2013 Department responsible for the programme: ..	Capital and Infrastructure Support Programmes	Viewed at: http://www.jsof.gov.cn/art/2013/3/26/art_70_116851.html	Aquaculture enterprises
Aquatic breeding The programme has three components: 1. Seed field capacity development projects. To develop and improve infrastructure related to seed production in fisheries, and to purchase equipment necessary for the preservation of genetic materials. Grants range from RMB 800,000 – 1,000,000 per project for a maximum of 10 projects province wide. 2. Seed conservation project. This is to support the work done in the public interest by certain provincial-level aquatic breeding centres. Support cannot exceed RMB 250,000 per project for a maximum of 20 projects province-wide. 3. Seed variety update project. To support renovating the genetic varieties of certain aquaculture species. Support cannot exceed RMB 200,000 per project for a maximum of 10 projects province-wide. Major fish stocks affected by the programme include: not specified. Year established: 2013 Department responsible for the programme: ..	Capital and Infrastructure Support Programmes	Viewed at: http://www.jsof.gov.cn/art/2013/3/26/art_70_116851.html	Aquaculture enterprises
Development and utilization of fisheries species with the integration of new technologies. The programme supports the protection of rare freshwater fisheries resources as well as the development of potential local and specialty breeds. Projects focus on searching for new species using green technology, and the use of information systems. Support is limited to a maximum of RMB 500,000 in total for a maximum of 45 projects province-wide. Major fish stocks affected by the programme include: not specified. Year established: 2013 Department responsible for the programme: ..	Fisheries Management and Conservation Programmes	Viewed at: http://www.jsof.gov.cn/art/2013/3/26/art_70_116851.html	Aquaculture enterprises

Programme	Type of Support	Source	Beneficiary
Fisheries major technology integration and demonstration projects To support the development and marketing of technologies that could range from those to process fish products to those to breed multiple species. The funding for each project cannot exceed RMB 1,500,000 individually. Major fish stocks affected by the programme include: not specified. Year established: 2013 Department responsible for the programme: ..	Capital and Infrastructure Support Programmes	Viewed at: http://www.jsof.gov.cn/art/2013/3/26/art_70_116851.html	Aquaculture enterprises
Aquatic product quality and safety testing Grants are primarily intended for quality inspection and the purchase of samples. Major fish stocks affected by the programme include: .. Year established: .. Department responsible for the programme: ..	Capital and Infrastructure Support Programmes	Viewed at: http://www.jsof.gov.cn/art/2013/3/26/art_70_116851.html	Aquaculture enterprises
Aquatic product quality certification awards. Awards of RMB 10,000 are granted for each certificate earned for healthy aquatic products. RMB 50,000 are granted for each aquatic geographical indication. Major fish stocks affected by the programme include: not specified. Year established: 2013 Department responsible for the programme: ..	Marketing and Price Support Programmes	Viewed at: http://www.jsof.gov.cn/art/2013/3/26/art_70_116851.html	Aquaculture enterprises
Export of aquatic product brands with development incentives Exports of aquatic products whose trademarks are registered overseas will be rewarded with RMB 30,000. Enterprises can apply for multiple grants up to a maximum of RMB 150,000. Major fish stocks affected by the programme include: not specified Year established: 2013 Department responsible for the programme: ..	Marketing and Price Support Programmes	Viewed at: http://www.jsof.gov.cn/art/2013/3/26/art_70_116851.html	Aquaculture enterprises
Monitoring and evaluation of marine economy Support for the monitoring and evaluation of fisheries industry operation and maintenance. Provincial level subsidies amount to a maximum of RMB 300,000. Municipal level subsidies amount to a maximum of RMB 100,000. Major fish stocks affected by the programme include: Not specified. Year established: 2013 Department responsible for the programme: ..	Fisheries Management and Conservation Programmes	Viewed at: http://www.jsof.gov.cn/art/2013/3/26/art_70_116851.html	Overall fisheries

Programme	Type of Support	Source	Beneficiary
Marine fishing vessels standardized renovation grants. During 2013, the provincial government intended to provide support to 180 fishing boats for their renovation. Some 70 vessels above 24 metres will be granted RMB 200,000 each; some 90 vessels above 36 metres will be granted RMB 300,000 each; some 20 vessels above 40 metres will be granted RMB 450,000 each. Major fish stocks affected by the programme include: not specified. Year established: 2013 Department responsible for the programme: ..	Capital and Infrastructure Support Programmes	Viewed at: http://www.jsof.gov.cn/art/2013/3/26/art_70_116851.html	Fisheries enterprises
The programme involves standardization of aquaculture pond construction projects, breeding projects, aquaculture cages, closed recirculation. The grants are applicable in 14 cities or districts. The provincial grants cannot exceed 1/3 of enterprises' actual investment. The maximum amount for each enterprise cannot exceed RMB 1 million. For each of the enterprises, the 2013 grant cannot exceed 120% of the 2012 grant. Major fish stocks affected by the programme include: not specified. Year established: 2013 Department responsible for the programme: ..	Capital and Infrastructure Support Programmes	Viewed at: http://www.fjof.gov.cn/_bsdt/bszn/yyl/article.htm1?id=76592 See also: http://fgw.fuzhou.gov.cn/fzgh/zxgh/201111/t20111111_500399.htm	Aquaculture enterprises
Aquatic breeding, breeding demonstration projects. Grants to support aquatic genetic breeding projects. The grants provided under this programme range from RMB 100,000 to 300,000. The grants are limited to projects undertaken in nine cities. Major fish stocks affected by the programme include: Not specified. Year established: 2013 Department responsible for the programme: ..	Capital and Infrastructure Support Programmes	Viewed at: http://www.ahny.gov.cn/Html/2013_04_09/2_965601_2013_04_09_1328977.html See also: http://www.ahzwgk.gov.cn/xxgkweb/showGKcontent.aspx?xxnr_id=89569	Aquaculture enterprises
Standardization of quality breeding projects. Grants of RMB 100,000 will be granted to support standardization of quality breeding programmes. The programme is limited to projects in six cities. Major fish stocks affected by the programme include: not specified. Year established: 2013 Department responsible for the programme: ..	Fisheries Management and Conservation Programmes	Viewed at: http://www.ahny.gov.cn/Html/2013_04_09/2_965601_2013_04_09_1328977.html; and http://www.ahzwgk.gov.cn/xxgkweb/showGKcontent.aspx?xxnr_id=89569	Aquaculture enterprises

Programme	Type of Support	Source	Beneficiary
Subsidies to purchase refined oil. Beneficiaries include ocean, offshore fishing and aquaculture companies that use motorized boats. The subsidy is based on the price for refined oil in 2006 (gasoline 4,400 RMB/tonne, diesel 3,870 RMB/tonne). Major fish stocks affected by the programme include: not specified. Year established: 2013 Department responsible for the programme: ..	Direct Assistance to Fishermen and Fisheries Workers	Viewed at: http://www.zjputuo.gov.cn/zwxx/20102/2516451297448713.html See also: http://www.zj.gov.cn/art/2013/8/15/art_5495_856995.html	Fisheries producers
Enterprises in Guangdong Province engaged in breeding projects. Two subsidies of RMB 1,000,000 each will be granted to aquatic breeding farms. 10 provincial aquatic breeding farms will be selected to carry out breeding, with support of up to RMB 800,000 each. Major fish stocks affected by the programme include: not specified. Year established: 2013 Department responsible for the programme: ..	Capital and Infrastructure Support Programmes	Viewed at: http://www.gdofa.gov.cn/index.php/Catagories/view/id/173196	Aquaculture enterprises
Enterprises in Guangdong Province engaged in breeding projects. Technical Development Projects. RMB 7,000,000 will be granted to support technical development projects annually. Ten provincial projects and ten municipal projects will be awarded the subsidies. Grants for provincial projects are of RMB 500,000 each; while grants for municipal projects are of RMB 200,000 each. Major fish stocks affected by the programme include: all species. Year established: 2013 Department responsible for the programme: ..	Capital and Infrastructure Support Programmes	Viewed at: http://www.gdofa.gov.cn/index.php/Catagories/view/id/173196	Aquaculture enterprises
Enterprises in Guangdong Province. Seed Varieties Update Project. A RMB 2.4 million annual grant is allocated to 20 projects engaged in developing fishery seed; each project will received a grant of a maximum of RMB 120,000. Major fish stocks affected by the programme include: Not specified. Year established: 2013 Department responsible for the programme: ..	Capital and Infrastructure Support Programmes	Viewed at: http://www.gdofa.gov.cn/index.php/Catagories/view/id/173196	Aquaculture enterprises

Programme	Type of Support	Source	Beneficiary
The programme provides insurance support to fishermen. Eligibility is restricted to registered fishermen less than 65 years old who operate registered fishing vessels. The type of insurance coverage includes accidental death insurance and property insurance for fishing vessels that have a minimum of 20 horsepower. Provincial subsidy amount: 25% of insurance cost. County level subsidy amount: 10% of insurance cost. Other city level subsidy amount: not less than 5% of insurance cost. Major fish stocks affected by the programme include: not specified. Year established: 2013 Department responsible for the programme: ..	Tax Preference and Insurance Support Programme	Viewed at: http://news.southcn.com/g/2012-09/21/content_55249341.htm Kaiping is a city in Guangdong Province. Their formal website has an update which was very recent, and the mechanism of the subsidy was the same as the provincial one described in the news. Viewed at: http://cct.kaiping.gov.cn/shownews.aspx?guid=67708	Fisheries enterprises
The project is intended to improve safety levels in the provincial fisheries industry and protect the safety of individual fishermen. The programme has three key areas of focus: • Fishing vessel life rafts: Each fishing vessel of more than 100 horsepower will be granted RMB 2,000 per vessel to purchase and upgrade life rafts. • Automatic Identification Devices: Fishing vessels of more than 60 horsepower will be granted RMB 1,800 per vessel to purchase and upgrade AID systems. • Intelligent Identification Devices: full cost will be covered for certified fishing vessels. Major fish stocks affected by the programme include: not specified. Year established: 2010 Department responsible for the programme: ..	Capital and Infrastructure Support Programmes	Viewed at: http://www.moa.gov.cn/sjzz/yyj/yugang/201002/t20100221_2080745.htm See also: http://hyj.yantai.gov.cn/HYJHYGH1/2012/05/08/10029855.html	Fisheries enterprises
Construction of fisheries facilities. Provincial support of RMB 2 million per project will be granted for the construction of five fisheries facilities. Beneficiaries should be provincial-level large enterprises with registered capital of not less than RMB 5 million and annual production of more than RMB 30 million. Major fish stocks affected by the programme include: not specified. Year established: 2013 Department responsible for the programme: ..	Capital and Infrastructure Support Programmes	Viewed at: http://www.hbfm.gov.cn/cyfz/xmdt/2013-07-12/20201.html See also: http://www.hbshuichan.com/2011/1231/63555.html	Fisheries enterprises
Fish pond reconstruction project. Provincial support for the reconstruction of 90 standardized fisheries ponds that meet certain government requirements. Pingyuanhu Area has a limit of 50 projects with funding of RMB 600,000 per project. Qiukang area has a limit of 40 projects with funding of RMB 250,000 per project. Eligible enterprises must be legally certified at provincial government level or above. Reconstruction area must not be less than 500 acres.	Capital and Infrastructure Support Programmes	Viewed at: http://www.hbfm.gov.cn/cyfz/xmdt/2013-07-12/20201.html see also: http://www.hbshuichan.com/2011/1231/63555.html	Aquaculture enterprises

Programme	Type of Support	Source	Beneficiary
Major fish stocks affected by the programme include: not specified. Year established: 2013 Department responsible for the programme: ..			
Aquatic breeding base construction project. Provincial support of RMB 300,000 for 25 projects that meet the production requirements and exceed aquatic breeding requirements. Eligible enterprises must have breeding production of more than RMB 1 million per year. Major fish stocks affected by the programme include: not specified. Year established: 2013 Department responsible for the programme: ..	Capital and Infrastructure Support Programmes	Viewed at: http://www.hbfm.gov.cn/cyfz/xmdt/2013-07-12/20201.html See also: http://www.hbshuichan.com/2011/1231/63555.html	Aquaculture enterprises
Eco-efficient fisheries model. Eight eco-efficient fisheries projects will be funded if they meet certain provincial requirements on usage of high-efficiency and eco-friendly breeding models. Funding will be a maximum of RMB 250,000 per project. Major fish stocks affected by the programme include: not specified. Year established: 2013 Department responsible for the programme: ..	Capital and Infrastructure Support Programmes	Viewed at: http://www.hbfm.gov.cn/cyfz/xmdt/2013-07-12/20201.html See also: http://www.hbshuichan.com/2011/1231/63555.html	Aquaculture enterprises
Duty-free importation of aquatic breeds. Based on geographic location; coverage; breeding type; annual production capacity; technical capacity. Major fish stocks affected by the programme include: not specified. Year established: 2013 Department responsible for the programme: ..	Tax Preference and Insurance Support Programme	Viewed at: http://dof.hainan.gov.cn/wsbs/bszn/201002/t20100208_993950.html	Aquaculture enterprises
Since 1999, in an effort to rehabilitate marine fisheries resources covering areas north of the 12th parallel, the Hainan provincial marine and fishing department has imposed a fishing moratorium. A total of 9,007 registered fishing vessels have been affected. As a result, the provincial bureau has allocated RMB 600,000 in subsidies for fishermen to make up for loss of income while the ban is still in place. Major fish stocks affected by the programme include: not specified. Year established: 2013 Department responsible for the programme: ..	Fisheries Management and Conservation Programmes	Viewed at: http://www.china.org.cn/china/2013-05/16/content_28842159.html	Fisheries enterprises

.. Not available.

a The authorities could not verify this information.

Source: WTO Secretariat.

Table A4. 1 Type of insurance

Type of insurance	Basic services	Requirements applicable to newly-established insurance companies applying for the provision of basic services	Extended services	Requirements applicable to insurance companies applying for the provision of extended services
				Conditions common to property insurance and to life insurance. An insurance company may apply for extended services after it has obtained qualifications for the first three basic services, provided that each application may not increase more than one type of service and that the interval between two applications shall be no less than six months.
Property insurance	(1) auto insurance, including compulsory traffic accident liability insurance and commercial auto insurance; (2) enterprise/household property insurance and engineering insurance (except special risk insurance); (3) liability insurance; (4) vessel/cargo insurance; (5) short-term health/accident insurance.	A new property insurance company: (1) may only apply for one type of basic service in the case of an insurance company established with a minimum registered capital of RMB 200 million; (2) may increase its registered capital by no less than RMB 200 million for each additional basic service.	(1) agricultural insurance; (2) special-risk insurance, including aviation and space insurance, marine development insurance, petroleum and gas insurance and nuclear insurance; (3) credit and guarantee insurance; (4) investment insurance.	(1) it has continuously operated for more than three full accounting years; (2) its average year-end net assets in the last three years are no less than RMB 1 billion (RMB 2 billion for credit and guarantee insurance and RMB 3 billion+ net profits for the last three years for investment insurance); (3) its solvency margin ratio at the end of the previous year and in the last four quarters is no less than 150%; (4) it has committed no major illegal or law-breaking act in the last three years; (5) for special risk insurance, credit and guarantee insurance and investment insurance: it has a sound corporate governance structure and effective internal management; its risk control indicators comply with provisions; and its classified supervision review of the previous quarter is A or B; it has special internal control systems, professional service capacity, an information system and reinsurance programme.[a]
Life insurance	(1) common insurance, including life insurance and annuity insurance; (2) health insurance; (3) accident insurance; (4) participating insurance; (5) universal insurance.	A new life insurance company: (1) may only apply for one of the first three types of basic services in the case of an insurance company established with a minimum registered capital of RMB 200 million; (2) may increase its registered capital by no less than RMB 200 million in order to add any of the first three types of basic service; (3) must have registered capital of no less than RMB 1 billion in case of application for the first three types and the fourth or the fifth type of basic service; (4) must have registered capital of no less than RMB 1.5 billion in case of application for engagement in all types of basic services;	(1) investment-linked insurance; (2) variable annuity.	(1) its solvency margin ratio at the end of the previous year and in the last four quarters is no less than 150%; (2) it has a sound corporate governance structure and effective internal management; its risk control indicators comply with provisions; and its classified supervision review of the previous quarter is A or B; (3) it has special internal control systems, professional service capacity, an information system and reinsurance programme; (4) it has committed no major illegal or law-breaking act in the last three years; In addition, for investment-linked insurance: (1) it has continuously operated for more than three entire accounting years; (2) its average year-end net assets in the last three years is no less than RMB 2 billion; in addition, for variable annuity business: (1) it has continuously operated for more than six full accounting years; (2) three full years have passed since it was approved to run an investment-linked insurance business; (3) its average year-end net assets in the last three years are not less than RMB 3 billion; (4) it has stable investment management teams and a steady investment track record.

Type of insurance	Basic services	Requirements applicable to newly-established insurance companies applying for the provision of basic services	Extended services	Requirements applicable to insurance companies applying for the provision of extended services
		(5) must apply simultaneously for the first three types of basic services in case of application for the fourth or the fifth type; (6) must have special internal control systems, professional service capacity, an information system and reinsurance programme in case of application for the second, fourth and fifth types.		

a The reinsurance programme obligation does not apply to investment insurance.

Source: Information provided by the Chinese authorities.

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