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Trade Policy Review Body

TRADE POLICY REVIEW

REPORT BY THE SECRETARIAT

CHINA

This report, prepared for the sixth 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/342 contains the policy statement submitted by China.

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SUMMARY

1. During the period under review (2014-2016), China's economic growth slowed down. The authorities consider that the economy has entered a "New Normal" situation that will imply more stable, albeit lower, GDP growth rates of around 6.5%-7% a year. Real GDP expanded by 7.3% in 2014 and by 6.9% in 2015, down from 7.7% in both 2012 and 2013. As in the previous two-year period, the driving force behind growth was strong domestic demand, supported by domestic credit expansion and availability, and by rising incomes. This situation continues to reflect the policy adopted by China since 2011, aimed at boosting domestic consumption and making it the major force driving growth. In 2015, consumption contributed 4.6 percentage points to GDP growth, while investment contributed 2.5 percentage points. Although growth in domestic demand continued to be robust, domestically-produced goods and services benefitted more than imports, since the latter fell considerably in 2015. Consumer price inflation has remained moderate during the review period, increasing by just 2% in 2014 and 1.4% in 2015, as pressures stemming from strong domestic demand and higher wages were countered by the decline in world prices of primary commodities.

2. As stated in the Outline of the 13th Five-Year Plan (2016-2020), the authorities are intent on continuing the process of structural economic reform, which includes the promotion of private sector participation in the economy, as well as the reform of State-Owned Enterprises (SOEs), while keeping the preponderance of public ownership. Other measures mentioned in the Plan include the promotion of competition, fiscal reform, financial sector reform to increase private capital participation in banking and expand the provision of financial services, and making the exchange rate and interest rate more market-oriented. The authorities have also recently taken steps aimed at dealing with overcapacity in certain industries. Measures were introduced to discourage or reduce production in industries such as iron and steel, electrolytic aluminium, cement, plate glasses and vessels. Local authorities and central departments are not allowed to approve any new capacity-expanding projects in those areas.

3. China's current account surplus saw an upward trend during the review period. It totalled US$330.6 billion in 2015, and was equivalent to 3% of GDP. This higher surplus stems, to a large extent, from a large increase in the merchandise trade surplus. The merchandise trade surplus increased sharply in 2014 and 2015, when it reached US$567 billion or the equivalent of 5.2% of GDP. This mainly reflected the decline in imports. Imports as a share of GDP declined to 14.5% in 2015, down from 17.5% in 2014 and 21.1% in 2011. This contraction is partly caused by lower oil import prices. China's traditional external current account surplus reflects the excess of national savings over investment, which, after narrowing up to 2014, widened again in 2015 to 3.4% of GDP.

4. During the period under review, China continued to implement a proactive fiscal stance, with expenditure increasing faster than revenue. The fiscal deficit reached 2.4% of GDP in 2015; however, if off-budget activities are included, the deficit may be as high as 10% of GDP. Partly in response to the need to control off-budget spending and to consolidate the budget of the different government levels, a new Budget Law was adopted. This Law stipulates that, in principle, during budget implementation, governments at the different levels may not introduce new measures to increase or reduce revenue or to increase expenditure, unless approved by the Standing Committee of the People's Congress at the same level of government. Tax reform measures have also been implemented, including progress in the implementation of VAT and in the elimination of double taxation.

5. In 2014 and 2015, China initially adjusted its monetary policy to support the real economy and later to adjust it to the "New Normal". The People's Bank of China (PBOC) continued its interest rate liberalization policy, which started with the free determination by banks of their lending rates and was followed by the gradual removal of upper interest rate limits for foreign currency deposits. The period has also been characterized by repeated cuts in loan and deposit benchmark interest rates and by targeted cuts in the reserve requirement ratio. This was combined with the introduction of new financial instruments to increase the liquidity available to the banking system. The PBOC has also guided financial institutions to raise the proportion of credit granted to rural projects and to small and micro businesses by establishing an incentives mechanism. This has resulted in a rapid growth of credit and other monetary indicators. The outstanding amount of RMB and foreign currency loans in late 2015 was some 140% of GDP, while outstanding deposits represented just over 200% of GDP.

6. The PBOC continues to maintain a managed floating exchange rate regime, which takes a basket of currencies as a reference. Since 2013, the PBOC has pushed forward reforms to let the market play a more decisive role in exchange rate formation. The floating range of the RMB exchange rate has gradually been expanded, and the flexibility range of the RMB/US$ exchange rate has been increased to 2%. A number of steps leading to less intervention in the market were taken during the review period, including the elimination of the control over the spread between US$ selling and RMB buying prices, and the subsequent introduction of market-based daily intermediate prices (RMB against US$). In the ten-year period ending in late 2015, the RMB experienced a nominal effective appreciation of 45.9% and a real effective appreciation of 56.2%. However, it has been noted that, since the second half of 2014, the RMB has depreciated somewhat.

7. Although China remains the world's largest trader (excluding intra-EU trade), trade, in particularly imports, lost considerable momentum during the review period, contrasting with the developments highlighted in the previous review. In 2015, both exports and imports of goods declined, with exports totalling US$2.28 trillion, down from US$2.34 trillion in 2014, and imports amounting to US$1.68 trillion, down from US$1.96 trillion in 2014. Import contraction in value terms reflects, to a considerable extent, lower oil and other commodity prices. Imports of fuels fell by some US$120 billion in 2015 with respect to the previous year, to around US$200 billion; this decline accounted for over half of that year's contraction in imports. Manufactured products remained the dominant component of exports, accounting for slightly over 94% of the total. Among them, office machines and telecommunication equipment; and textiles and clothing continued to be China's main exports. Manufactured products accounted for 64.4% of imports in 2015. The main categories include office machines and telecommunications equipment; and chemicals. Fuels and other mining products accounted for some 21% of China's imports in 2015, while agricultural products accounted for 9.5%.

8. In 2015, the main destinations for merchandise exports were the United States; the EU; Hong Kong, China; Japan; the Republic of Korea; and ASEAN countries, which combined represented about 70% of exports. The main sources of its imports were the EU, the Republic of Korea, the United States, Chinese Taipei, Japan, and Australia, and ASEAN countries. In 2015, services represented 12.3% of China's total exports and 22.9% of its imports. Exports of travel, construction, telecommunications, financial and business services were the most dynamic in the review period, while, among imports, travel services continued to gain a considerable market share, accounting for 62.3% of the total in 2015.

9. China remains one of the largest recipients of foreign direct investment (FDI) in the world. In 2014, FDI inflows reached US$119.6 billion, 1.7% more than those registered in 2013. The main sectors attracting FDI in 2014 were manufacturing (33.4% of the total), real estate (29%), leasing and business services (10.4%), and wholesale and retail trade (7.9%). China has continued to seek to attract further FDI by facilitating procedures, through a number of incentive schemes and through liberalization in the four existing Pilot Free Trade Zones. Hong Kong, China continued to be the main source of FDI, accounting for 73% of the total in 2015. It was followed by Singapore, Chinese Taipei, the Republic of Korea, Japan, and the United States.

10. In the next few years, and through its process of structural reform, China aims to attain a "New Normal" which is to be characterized by a somewhat lower, and increasingly more service- and technology-oriented, economic growth. Given China's role as a major player in global trade, this will have implications for the rest of the world due to the possible effect on trade patterns. The shift to a production pattern based on greater innovative capacity will need to be supported by a more skilled labour force, and access to the latest technology. This will require further adjustment efforts and an increasingly more market-oriented approach to investment, with the market playing the main role in the allocation of resources. The authorities are aware that some risks to future growth and development persist, including increasing aggregate debt levels, rising production costs, insufficient financing for small and micro businesses, oversupply in some industries and shortages in others, and structural bottlenecks. They have identified a roadmap to deal with risks and achieve stable medium-term growth through a number of measures to strengthen the role of the market, such as: tax reform, an improvement of local government debt financing mechanisms, the reduction of overcapacity, the promotion of market-based pricing and more market-determined interest and exchange rates. Other proposed measures, on the other hand, such as increasing financial support to the real economy, especially credit support to key and weak areas,

and supporting the development of strategic emerging industries, would seem to point in a different direction.

11. China is an observer to the Plurilateral Agreement on Government Procurement (GPA) and continues negotiating its accession thereto. It is also an observer to the Plurilateral Agreement on Trade in Civil Aircraft, and, as a participant in the Information Technology Agreement (ITA), has agreed to its expansion. China submitted its notification of Category A commitments under the Agreement on Trade Facilitation and, on 4 September 2015, it ratified the Agreement. During the review period, it was involved in three cases under the WTO dispute settlement system: in two cases as a respondent and in one as a complainant. It was also involved as a third party in 17 cases brought to the Dispute Settlement Body (DSB).

12. As at December 2015, China had signed 15 preferential trade agreements. During the period under review, it signed FTAs with Australia and with the Republic of Korea. The agreements with Iceland and Switzerland entered into force in 2015. Since its last Review in 2014, China has continued to deepen its integration with Hong Kong, China and with Macao, China through the signature of supplementary agreements to their respective Closer Economic Partnership Arrangements (CEPAs). China continues to grant unilateral preferences to LDCs. As of December 2015, duty-free treatment on 97% of tariff lines was granted to 33 LDCs.

13. The Investment Catalogue, which is revised periodically, remains the main instrument used to guide FDI in China. Under the Catalogue, foreign investment projects are classified as encouraged, restricted or prohibited. Projects that fall outside of these three groups are permitted. Projects in the encouraged category are eligible for preferential treatment, for example, customs duty exemptions for the importation of capital goods, while projects in the restricted category must undergo a more thorough examination and approval process. The 2015 revision of the Catalogue encourages FDI in technology, advanced manufacturing, energy conservation and environmental protection, new power sources, and service industries. The authorities noted that the revised Catalogue is intended to promote the use of foreign investment in a more efficient manner, and that it denotes an effort to open up the Chinese economy to foreign investment, mainly in the services sector but also in manufacturing. However, a direct comparison between the revised and previous Catalogues is difficult, as the content of each category is somewhat different and the descriptions/names of some activities were updated to reflect technological changes.

14. During the period under review, China has continued encouraging FDI as well as joint ventures between Chinese and foreign companies, particularly in areas in which it 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. It has also encouraged FDI in the central and western regions, where projects may benefit from favourable policies. FDI involving investments in Chinese domestic enterprises might be subject to national security reviews if the project is related to defence, or is deemed to have an influence on national security. Foreign-invested projects (FIPs) in China are subject to verification (approval) or to record-filing. Projects subject to verification are listed in a specific Catalogue, while most projects not included in it are subject to record-filing. Verification requires the examination of the investment project, and a number of conditions need to be met. Record-filing is a simplified process and is generally used in FIP applications not deemed to have a negative impact on national security, the environment or public interest.

15. The pilot reform of the foreign investment system, which was initiated in 2013 through the establishment of the China (Shanghai) Pilot Free Trade Zone (CSPFTZ), was expanded in 2015 to three other pilot free trade zones in Guangdong, Fujian and Tianjin. FDI access to these four zones is based on a negative list approach. FIPs not included in the negative list are granted national treatment, as they are exempt from examination and approval, and are subject only to record-filing. The authorities seem intent on gradually expanding the negative list approach to all investment. In October 2015, the State Council issued an Opinion that calls for the creation of two negative lists, one for market access, to be applied to both domestic and foreign companies, and another for foreign investment. The use of these lists will be gradually implemented; it is not clear as yet how they will relate to the Investment Catalogue.

16. China has continued its efforts to facilitate trade during the review period by launching a series of reforms to make customs procedures more efficient both for imports and exports. Paperless customs clearance was implemented across China in 2014, except for goods subject to

licensing or other restrictions. In 2015, a pilot paperless customs clearance scheme for products subject to automatic import licensing, excluding those for which a licence can be used for multiple shipments, which had been implemented in the CSPFTZ, was expanded to Tianjin, Fujian, Guangdong, Ningbo and Suzhou.

17. China's applied MFN tariff in 2015 consisted mainly of *ad valorem* rates (99.5% of the total number of lines). The non-*ad valorem* rates comprised specific and alternate rates, and formula duties. China's average applied MFN rate in 2015 was 9.5%, almost unchanged since the last Review. This average continues to be higher for agricultural products (WTO definition), at 14.8%, than for non-agricultural ones, at 8.6%. China makes use of tariff-rate quotas (TRQs); in 2015, they applied to 47 tariff lines including products such as wheat, maize, rice, some cereal flours, cane and beet sugar, some mineral and chemical fertilizers, wool, and cotton.

18. Imports continue to be classified into three categories: not restricted, restricted and prohibited. Automatic import licensing is in place for statistical purposes to monitor trade volumes of imports that are not restricted. These goods are listed in the Catalogue of Goods subject to Automatic Licensing, which is issued annually, and in the Catalogue of Automatic Licensing for Solid Waste. In 2015, 396 products at the HS 8-digit level were included in the former (46 less than in 2013); however, eight tariff lines were added to it later in the year. There were 17 products listed in the Catalogue of Automatic Licensing for Solid Waste. Since the last Review, automatic import licensing requirements were removed for certain machinery and equipment, and vehicles. Restricted goods are administered through non-automatic licences and/or quotas. Non-automatic licences apply to imports regardless of the origin. Products subject to non-automatic licensing are listed in the Catalogue of Goods Subject to Licensing and in the Catalogue of Restricted Imports for Solid Waste. In 2015, 134 tariff lines at the HS 8-digit level were subject to non-automatic import licensing. In 2015, as in 2013, these imports were mainly second-hand machinery and electronic equipment. The terms and procedures to obtain such a licence remain unchanged since the previous Review.

19. During the period examined, the number of anti-dumping (AD) measures in place continued to decline. China had 91 AD duty orders in effect as at 31 December 2015, down from 113 measures as at December 2013. Imports from 13 countries or territories were affected, three less than at the time of the last Review. By end-December 2015, imports from the United States and Japan were subject to the largest number of AD duty orders, followed by those from the EU, the Republic of Korea, and Chinese Taipei. Measures continued to be concentrated in a few areas, in particular chemical products, which accounted for over 60% of the total number of AD orders in place as of 31 December 2015. Although the number of measures in place was lower than at the time of the last Review, their average length of application was slightly longer. Furthermore, although the number of AD investigation initiations by China fell from eleven in 2013 to seven in 2014, it rose again to 11 in 2015. No countervailing (CV) duty investigations were initiated in 2014 or 2015. As at 31 December 2015, four CV measures affecting imports from the EU and the United States were in place. As at end-2015, the longest existing CV measure had been in place for slightly over five years. China did not initiate any safeguard investigations during the period under review.

20. Although China's legal framework to conduct AD and CV investigations was not modified during the period under review, there were changes at the institutional level. In April 2014, a Trade Remedy and Investigation Bureau (TRB) was established, consolidating the functions of the former Bureau of Fair Trade for Imports and Exports (BOFT) and of the Investigation Bureau of Industry Injury (IBII) in the area of trade remedy investigations. The authorities consider that the changes will improve efficiency, reduce interested parties' burden in litigation, and streamline the investigation procedures, while not compromising the independent determination of the margin of dumping and injury.

21. China has four kinds of standards: national, industry/sectoral, local, and enterprise. The first three can be either voluntary or mandatory (technical regulations). National standards are developed by the Standardization Administration of China (SAC), through a process that comprises a number of steps in which the respective industries play a supportive role. They are reviewed after five years of implementation to confirm whether they are still valid, or whether they need to be amended or annulled. Industry/sectoral standards are formulated by the relevant technical committees. China maintains a compulsory product certification system to enforce product compliance with technical requirements, which applies to both domestic products and imports. The

products subject to compulsory product certification are listed in the Compulsory Product Certification Catalogue; they cannot be sold in China or imported without obtaining certification and a corresponding mark. In 2015, 493 HS tariff lines at the 10-digit level were subject to this certification. Over 80% of the lines were machinery and mechanical appliances, electrical machinery and equipment, and vehicles. Food safety and quality control of the food supply chain have become a national priority. In this context, China promulgated the new Food Safety Law in 2015, which aims at strengthening the domestic food safety management system, imposing greater responsibility for food safety on producers, traders, and local governments; it imposes severe punishments on those violating the Law.

22. China charges export taxes on certain products, and applies quotas or bans on others. 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. The list of goods subject to statutory and interim export taxes is issued every year. Exports paying interim taxes may also be subject to special export duties, which are applied seasonally and may be substantially higher than interim duty rates. China is the leading world exporter of certain products, some of which are subject to export taxes. During the period under review, there were two important changes regarding the imposition of export duties. First, in May 2015, interim export duties were removed on items included in 91 tariff lines at the HS 8-digit level, such as chemical elements, certain iron and steel articles, tungsten, and molybdenum; however, statutory export rates remained in place for all these items. Second, the special export duty rate of 75%, which applied mainly to fertilizers, was eliminated. In 2015, interim duties were levied on 314 tariff lines at the HS 8-digit level, compared to 320 in 2013, ranging from 0% to 35%. Export taxes (including both statutory and interim duties) were applied to some 4.1% of all tariff lines at the HS 8-digit level in 2015. Exporters are entitled to VAT rebates on all exported goods. The rebate rates vary according to the product, and are usually lower than the VAT paid, ranging from 0% to 17%.

23. There were some changes regarding competition policy regulations since the last Review. New regulations with respect to mergers were introduced in February 2014, to allow the use of simplified procedures when analysing concentration operations involving a relatively low combined market share. Provisions, effective from January 2015, were issued to provide a clearer legal basis for the determination, evaluation and supervision of restrictive conditions attached to the approval of mergers. Provisions, effective 1 August 2015, geared to avoiding conflict between intellectual property (IP) protection and competition policy enforcement, were also introduced. Under these provisions, an agreement involving IP must be subject to certain conditions, including maximum market share limits. The provisions also outlaw practices that may exclude or restrict competition, such as refusal to licence, exclusive trading, or tying or bundling the sale of additional products. They also forbid entering into abusive IP standard-setting agreements.

24. China applies price controls, at both the central and provincial levels, on commodities and services deemed to have a direct impact on the national economy and people's livelihoods. These take two forms: government prices, which are fixed prices set by the authorities, and government-guided prices, set within a range. The commodities and services subject to price controls are listed in a Central Government Pricing Catalogue and in Local Government Pricing Catalogues. Since the last Review, China has liberalized the price of several goods and services, such as the ex-factory price of explosive materials, the charges for some construction projects, and the prices of military goods and of tobacco leaves. Government-set prices are currently applied to refined oil products, natural gas, certain medicines, and some services. Products classified as important central reserve materials (grain, cotton, sugar, filature silk, crude oil, processed oil, and chemical fertilizers) are no longer subject to government-set prices.

25. China maintains a number of support programmes at the sectoral, regional and enterprise levels to attain different economic and social goals. In 2015, it submitted a notification to the WTO regarding its support programmes at the central level, covering the 2009-2014 period. The notification contains 86 programmes, of which 30 had not been previously notified to the WTO. The programmes listed included incentives provided to: Foreign-Invested Enterprises (FIE); Special Economic Zones; less developed regions; small and medium enterprises (SMEs); specific industries (i.e. energy and strategic emerging industries); and agriculture.

26. Public ownership remains the mainstay of the Chinese economy, while diverse forms of ownership are allowed to develop alongside it. The private sector is dominant in industries such as

clothing, food, and assembly for export, while sectors of strategic importance (energy, utilities, transport, education, and health-care services) remain only partially open to private investment. These sectors are often dominated by large SOEs which may be for-profit entities or public services entities, depending on their activity. During this Review, the authorities stated that the Government was in the process of reforming SOEs to further develop mixed ownership in China, as required by the Guiding Opinion on Further Deepening the Reform of State-Owned Enterprises.

27. China's Government Procurement Law was amended in 2014 and the implementing regulations came into effect in early 2015. New regulations were also introduced in 2014 for both competitive and non-competitive bidding. Under the Government Procurement Law, the authorities are required to procure goods, construction projects and services domestically, subject to certain exceptions including unavailability in China or lack of availability on reasonable commercial terms. Government procurement can be centralized or decentralized. Purchases of items listed in the Centralized Procurement Catalogue must be carried out by centralized procurement agencies; centralized procurement accounted for 86% of total procurement in 2014. There are currently six procurement methods, which may be used both at the central and local levels: public tendering, selective tendering, competitive negotiations, request for quotations, competitive consultations, and single-source procurement. The competitive consultation method was introduced in 2014. Public tendering is the most widely used method; in 2015, for projects under the central budget, it was required for procurement exceeding RMB 1.2 million in the case of goods and services, and over RMB 2 million for construction projects. Public tendering accounted for 84.5% of total procurement in 2014.

28. During the period under review, China has continued to implement measures aimed at improving its intellectual property rights (IPRs) protection regime, including amendments to laws, regulations and rules. Measures were introduced in the area of patent protection in 2014 and 2015, which included: the granting of design patents for graphical user interface products, the improvement of the protection of biological materials through patents; measures to improve the patent agency system; and procedures to standardize patent protection enforcement across China. Changes were also introduced in the area of trademark protection related to: the protection of sound marks and well-known trademarks, the adoption of multiple-class registration, the protection of exclusive trademark rights, the increase of penalties for trademark infringement, and the responsibility for trademark infringement of the operator of an Internet trading platform.

29. China has continued to strengthen its IPR enforcement system, both at the administrative and judicial levels. However, despite the efforts undertaken by the authorities to combat infringement, enforcement of IPRs continues to be a major challenge. Public security authorities above the prefecture and city levels in China currently have units to crack down on infringement and counterfeiting activities. China has also continued to reinforce the judicial infrastructure needed for court enforcement of IPRs, including through the creation in 2014 of specialized IPR courts in Beijing, Shanghai and Guangzhou. Cases concerning appeals by right holders, against the rulings or decisions made by the departments of the State Council with respect to the authorization or confirmation of IPRs, and administrative cases relating to the licensing of IPRs, are now exclusively dealt with by the Beijing IPR Court.

30. The Chinese authorities aim to modernize the agricultural sector through mechanization and by promoting the development of moderate-scale operations to increase productivity, ensure grain self-sufficiency and promote food safety. These goals are to be attained by, *inter alia*, increasing and improving support to the sector, reforming the price forming system for agricultural products, and facilitating access to credit. Support to agriculture continues to be granted mainly through the "four subsidies" programmes: the Direct Subsidy to Farmers (rice, wheat and corn); the Comprehensive Subsidy for Agricultural Inputs; the Subsidy for Promoting Superior Strains and Seeds; and the Subsidy for Purchasing Agricultural Machinery and Tools. The Comprehensive Subsidy for Agricultural Inputs programme is the largest in terms of outlays; in 2014, it accounted for some 41% of the RMB 262 billion granted as support outlays for agricultural programmes. The authorities are planning to eventually merge three of the programmes into one. To this end, in 2015, a pilot programme to reform agricultural subsidies was implemented in five provinces (Anhui, Hunan, Shandong, Sichuan and Zhejiang), which consists of combining three of the "four subsidies" into one programme, the Agriculture Support and Preservation Subsidy, aimed at using funds in a more efficient manner. The Subsidy for Purchasing Agricultural Machinery and Tools will remain in place.

31. During the period under review, a number of measures were introduced to promote financial reform, including measures to promote private investment in banking, to enhance financial service provision to SMEs and rural areas, to increase capital market transparency and to introduce new financial services. In addition, a deposit guarantee scheme with a cap of RMB 500,000 was introduced in May 2015. A number of changes were introduced to banking regulations; these touch on issues such as licensing regulations, consumer finance, anti-money laundering measures, prudential regulations, and measures to address systemic risks such as non-performing loans, shadow banking and real estate bubbles. Amended regulations on the administration of foreign-invested banks, in effect since January 2015, further ease market access for foreign banks by: eliminating the requirement for the establishment of representative offices before setting up operating agencies; lowering the minimum operation period requirement for applying to conduct RMB business from three years to one year and eliminating the two-year profit-making requirement; and removing the RMB 100 million minimum working capital requirement for branches of foreign-invested banks. Some liberalization measures had previously been introduced in 2014, when restrictions regarding sub-branches of foreign-funded banks were removed.

32. Some liberalization measures were adopted in telecommunications during the review period, as investment in electronic commerce businesses by foreign-invested telecommunication companies was eliminated from the restricted category in the 2015 Investment Catalogue. In addition, in June 2015, the foreign shareholding ratio limit for operational electronic commerce nationwide was eliminated. In audiovisual services, the establishment of foreign motion picture production and distribution companies remains prohibited, with the exception of film distribution companies owned by investors from Hong Kong, China; and Macao, China, which are permitted to establish wholly-owned subsidiaries in China for the distribution of Chinese-made films and are allowed to produce and distribute audiovisual products. Only co-productions between China and foreign countries are allowed; in the 2010-2014 period, there were between 42 and 58 of these a year. Regarding health services, foreign suppliers are allowed to establish joint-venture hospitals or clinics in line with China's needs, with foreign-majority ownership permitted, but the majority of doctors and medical personnel of these hospitals and clinics must be of Chinese nationality. However, the 2015 Investment Catalogue classifies medical institutions in the restricted category, and the rules governing joint ventures in the medical area require that total investment be at least RMB 20 million and that the proportion of shares or equity of the Chinese party must be at least 30%. Furthermore, foreign institutions cannot establish branches. Foreign doctors with professional certificates issued by their home country are permitted to provide short-term medical services in China for a six-month period, which may be extended to one year.

1 ECONOMIC ENVIRONMENT

1.1 Recent Economic Developments

1.1. In 2014 and 2015, China's economic growth slowed down somewhat with respect to the previous two years. Real GDP expanded by 7.3% in 2014, down from 7.7% both in 2012 and in 2013, and increased by 6.9% in 2015. As in the previous two-year period, the driving force behind growth was strong domestic demand, triggered by domestic credit expansion and its availability, and by rising incomes (Table 1.1). This reflected the policy stance adopted by China since 2011 aimed at boosting domestic consumption and making it the major driving force of growth. Consumer price inflation was contained, increasing by just 2% in 2014 and 1.4% in 2015. Any pressure stemming from the increase in domestic demand and higher wages was countered by the decline in world prices of primary commodities which were reflected in lower energy prices. China's nominal GDP per capita (in US dollar terms) increased from around US$6,995 in 2013 to US$7,924 in 2015; it has more than doubled since 2008.

Table 1.1 Selected macroeconomic indicators, 2011-15

	2011	2012	2013	2014	2015
Nominal GDP (RMB billion)	**48,412.4**	**53,412.3**	**58,801.9**	**63,591.0**	**67,670.8**
Nominal GDP (US$ billion)	7,495.6	8,461.4	9,494.6	10,352.1	10,864.9
Real GDP (RMB billion, 2010 prices)	44,769.6	48,238.2	51,945.5	55,712.0	59,543.7
Real GDP (US$ billion, 2010 prices)	6,931.6	7,641.7	8,387.5	9,069.5	9,560.0
GDP per capita (RMB)	36,018.0	39,544.0	43,320.0	46,612.0	49,351.0
GDP per capita (US$)	5,576.5	6,264.5	6,994.8	7,588.0	7,923.5
National accounts					
Real GDP (% growth rate)	9.5	7.7	7.7	7.3	6.9
Domestic demand (% growth rate)	10.3	7.5	7.8	7.2	6.5
Consumption (% growth rate)	11.4	8.2	6.9	6.9	7.1
Investment (% growth rate)	9.0	6.7	8.9	7.6	5.8
Net exports (% growth rate)	-0.8	0.1	-0.2	0.1	0.2
Contribution to GDP growth					
Consumption[a]	6.0	4.3	3.7	3.7	4.6
Investment[a] (% growth rate)	4.2	3.2	4.2	3.4	2.5
Net exports[a] (% growth rate)	-0.8	0.1	-0.2	0.2	-0.2
Unemployment rate[b] (%)	4.3	4.1	4.1	4.1	4.1
Prices and interest rates					
Inflation (CPI, percentage change)	5.4	2.7	2.6	2.0	1.4
Lending rate (%, period average)	6.56	6.00	6.00	5.60	5.0
Deposit rate (%, period average) (six month-rate)	3.50	3.00	3.00	2.75	2.05
Exchange rate					
RMB per US$ (period average)	6.461	6.312	6.196	6.143	6.228
Real effective exchange rate index (% change)[c]	0.1	5.0	5.3	3.1	3.7
Nominal effective exchange rate index (% change)	2.7	5.6	6.3	3.2	..
Monetary indicators					
Domestic credit (% annual growth rate)	..	17.1	15.1	16.2	14.3
Broad money, M2 (% change from previous year)	13.6	13.8	13.6	12.2	13.3
Required reserve ratio (RRR) (in % of bank deposits)	20.5	19.5	19.5	19.5	17.5
Excess reserve ratio (in % of bank deposits)	2.3	3.3	2.3	2.7	2.1
Fiscal policy[d] (% of GDP)					
Government balance	-1.8	-1.5	-2.0	-2.1	-2.4
Total revenue	21.5	22.0	22.0	22.1	22.5
Tax revenue	18.5	18.8	18.8	18.7	18.5
Total expenditure	22.6	23.6	23.8	23.9	26.0
General government total debt	35.3	36.9	39.5	41.1	43.9
Savings and investment					
GDP by expenditure approach (RMB billion)	48,086.1	53,474.5	58,973.7	64,042.9	68,808.4
Final consumption expenditure (RMB billion)	24,157.9	27,171.9	30,100.8	32,896.2	36,313.2
Gross capital formation (RMB billion)	22,759.3	24,839.0	27,417.7	29,400.3	30,123.9
Net exports of goods and services (RMB billion)	1,168.9	1,463.6	1,455.2	1,746.3	2,371.3
Savings (RMB billion)	23,928.2	26,302.6	28,872.9	31,146.7	32,495.2
Savings as a share of GDP by expenditure (%)	49.8	49.2	49.0	48.6	47.2
Investment as a share of GDP by expenditure (%)	47.3	46.5	46.5	45.9	43.8
Savings-investment gap (% of GDP)	2.4	2.7	2.5	2.7	3.4
External sector (% of GDP, unless otherwise indicated)					
Current account balance	1.8	2.5	1.6	2.7	3.0
Net merchandise trade balance	3.1	3.7	3.8	4.4	5.2
Value of exports	24.1	23.3	22.6	21.7	19.7
Value of imports	21.1	19.6	18.9	17.5	14.5
Services balance	-0.7	-1.1	-1.2	-1.7	-1.7
Capital account	0.1	0.1	0.0	-0.0	0.0
Financial account	-1.7	-1.6	-0.9	-0.6	-1.3
Direct investment (net)	3.1	2.1	2.3	1.4	0.6
Merchandise exports[e] (percentage change)	21.6	9.2	8.9	10.5	-4.5
Merchandise imports[e] (percentage change)	27.3	5.2	7.7	1.1	12.9

	2011	2012	2013	2014	2015
Service exports[e] (percentage change)	7.0	4.6	2.7	35.5	2.2
Service imports[e] (percentage change)	23.2	18.2	17.5	37.0	3.6
Gross official reserves[f] (US$ billion; end period)	3,202.8	3,331.1	3,839.5	3,859.2	3,334.6
Foreign exchange[g] (US$ billion; end period)	3,181.1	3,311.6	3,821.3	3,843.0	3,330.3
Total external debt (US$ billion; end period)	695.0	737.0	863.2	895.5	1,416.2
Debt service ratio[h]	1.7	1.6	1.6	1.9	..

.. Not available.

a Contribution to annual growth in percentage terms. Figures are taken from the National Bureau of Statistics of China, *Statistical Yearbook 2013*, Tables 2-20.
b Registered unemployment in urban areas.
c An increase in the real effective exchange rate means an appreciation of the Renminbi relative to the other major currencies in the index.
d Including central and local governments.
e Growth rates in merchandise and service trade are based on US$.
f Excluding gold; including SDRs and reserve position in the Fund.
g Excluding gold, SDRs and reserve position in the Fund.
h 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 (2015);* State Administration of Foreign Exchange online information. Viewed at: http://www.safe.gov.cn/wps/portal/english/Data/Payments [29/01/2014]; and IMF, International Financial Statistics database.

1.2. During the period under review, in accordance with the People's Bank of China (PBOC), the Chinese Government tried to strike a balance between preserving stable economic growth, promoting reform, adjusting the economic structure, improving people's living standards, and preventing risks.[1] It was recognized that new growth drivers are taking shape, and the national economy must perform in a steady manner under the "New Normal", according to which the economy is expected to expand at more moderate and stable rates in the next few years.

1.3. In 2014, when real GDP growth reached 7.3%, the main contribution to growth came from consumption (3.7 percentage points), while investment contributed 3.4 percentage points. Final consumption expenditure explained 51.2% of GDP growth in that year.[2] Investment growth decelerated in 2014 and 2015 increasing at annual rates of 7.6% and 5.8%, respectively, down from 8.9% in 2013. The contribution of net exports to GDP growth was slightly positive in both 2014 and 2015, mainly on account of lower imports. In 2015, when real GDP expanded by 6.9%, growth continued to be led by strong domestic demand, particularly consumption, which contributed 4.6 percentage points to growth, while investment growth decelerated somewhat, contributing 2.5 percentage points to GDP expansion. Final consumption expenditure explained 52.8% of GDP growth in 2015. As was the case in the previous review, domestic demand was supported by fast domestic credit growth in both years: credit expanded by 16.2% in nominal terms in 2014 with respect to the previous year, and by 14.3% in 2015.

1.4. According to preliminary estimates, GDP posted a year-on-year increase of 6.7% in the first quarter of 2016, reaching RMB 15,852.6 billion. Investment in fixed assets grew 13.8% in real terms (10.7% in nominal terms), while investment in real estate development posted real growth of 9.1% (6.2% in nominal terms). The total value of exports dropped by 4.2%, and that of imports by 8.2%.[3]

1.5. In the context of the current Review, the authorities noted that they have continued to promote consumption growth, launching a number of programmes to this end. The policies put forward in 2014 included: increasing disposable income; promoting the consumption of services, in particular, elderly care services, healthcare services, tourism services, and cultural services; implementing a paid leave system; and promoting electronic commerce. Further measures to promote the expansion and upgrading of consumption were adopted by the State Council in October 2014. These measures included: further increasing disposable income through a reform

[1] People's Bank of China (2015), *Financial Stability Report 2015*, p. 15. Viewed at: http://www.PBOC.gov.cn/english/130736/2946072/2015090616281480816.pdf.
[2] People's Bank of China (2015), *Financial Stability Report 2015*, p. 15. Viewed at: http://www.PBOC.gov.cn/english/130736/2946072/2015090616281480816.pdf.
[3] National Bureau of Statistics of China, Press Release, "China's Economy Had a Good Start in the First Quarter of 2016", 15 April 2016. Viewed at: http://www.stats.gov.cn/english/PressRelease/201604/t20160415_1343971.html.

of the income distribution system and supporting measures, and by increasing farmers' income through various channels; releasing resources for consumption by improving the social security system, launching critical illness insurance countrywide, and promoting the development of a social assistance system; improving the distribution networks for agricultural and other key products; and promoting legislation on consumer product safety. In 2015, the authorities continued to implement the same policies to promote consumption.[4] To this end, the authorities identified six major areas in which they wish to promote consumption: online shopping; green consumption (energy-saving products); housing; tourism and leisure consumption; educational, cultural and sports consumption; and elderly care and healthcare services.[5]

1.6. Reflecting the faster growth of consumption, China's savings-investment gap declined somewhat between 2010 and 2014. However, in 2015, the savings-investment gap increased again, to 3.4% of GDP, on account of the higher external current account surplus, falling from 3.7% of GDP in 2010, to 2.5% in 2013 and 2.7% in 2014. Savings represented 47.2% of GDP by expenditure in 2015, while investment was 43.8% of GDP. The IMF considers that continued reform is needed to redress domestic imbalances and that the measures spelled out in the Third Plenum reform blueprint (Table A1.1), some of which have already been executed, need to be fully implemented by 2020.[6]

1.7. Consumer price inflation continued to decline during the period under review. While, in 2013, the consumer price index (CPI) increased by 2.6% year-on-year, it rose by only 2% in 2014 and by 1.4% in 2015. This result is almost entirely due to external effects, such as lower oil prices. In the first quarter of 2016, the CPI rose by 2.1% year-on-year. As of December 2015, the producer price index (PPI) had registered a negative growth for 46 consecutive months, and fell by 5.2% year-on-year for the whole 2015.

1.8. At the sectoral level, financial intermediation services constituted the fastest growing sector in 2014 and 2015, with growth rates in current terms exceeding 13% in 2014 and 23% in 2015. They were followed by hotels and restaurants (9.0% in 2015), real estate (8.7%), transport (6.6%) and wholesale and retail trade (6.1%). Industry, which includes manufacturing, mining and electricity, weakened in 2015 (it increased by only 0.4% in current terms, but by 5.9% in constant terms). Construction grew rapidly in 2014, but weakened in 2015 (Table 1.2). The primary sector (agriculture, forestry, animal husbandry and fisheries) grew more modestly, at 5.6% in 2014 and 4.6% in 2015. The value added of the primary sector accounted for 9.3% of GDP in 2015, industry accounted for 33.8%, construction for 6.9% and services for 50.5%. In the first quarter of 2016, the value added of the primary sector expanded by 2.9% year-on-year; that of industry and construction was up by 5.8%; and that of services increased by 7.6%.

Table 1.2 GDP by sector, 2011-15

	2011	2012	2013	2014	2015
GDP by industry at current prices (annual percentage change)					
Agriculture, forestry, animal husbandry and fishing	17.2	10.3	8.8	5.6	4.6
Industry (including mining and quarrying, manufacturing, and electricity)	18.0	6.8	6.2	5.0	0.4
Construction	20.8	12.1	10.9	9.8	3.7
Services	18.7	13.3	13.5	10.8	11.7
Wholesale and retail trade	21.8	14.0	12.9	10.9	6.1
Transport, storage and communications	16.3	8.8	9.6	9.4	6.6
Restaurants and hotels	11.1	11.3	7.2	9.1	9.0
Financial intermediation	19.5	14.7	17.1	13.3	23.2
Real estate	19.5	10.9	15.2	5.6	8.7
Other	18.0	14.6	13.6	12.4	12.7

[4] In August 2015, the State Council issued the Opinions of the State Council on Promoting the Modernization of Domestic Trade Circulation and Building the Business Environment Under the Rule of Law (Guo Fa [2015] No. 49) to improve the distribution system.

[5] In 2015, total retail sales of consumer goods amounted to RMB 30.1 trillion, a rise of 10.7% over the previous year. Of this amount, RMB 3.2 trillion is attributable to online retail sales, a rise of 31.6%.

[6] IMF (2014), *Country Report No. 14/235: People's Republic of China, 2014 Article IV Consultation*, July 2014. Viewed at: http://www.imf.org/external/pubs/ft/scr/2014/cr14235.pdf; and IMF (2015), *Country Report No. 15/234: People's Republic of China, 2015 Article IV Consultation*, August 2015. Viewed at: http://www.imf.org/external/pubs/ft/scr/2015/cr15234.pdf.

	2011	2012	2013	2014	2015
Share of main sectors in GDP (%)					
Agriculture, forestry and fishing	9.8	9.8	9.7	9.5	9.3
Industry (including mining and quarrying, manufacturing, and electricity)	39.6	38.3	36.9	35.9	33.8
Construction	6.8	6.9	6.9	7.0	6.9
Services	44.3	45.5	46.9	48.1	50.5
Wholesale and retail trade	9.0	9.3	9.6	9.8	9.8
Transport, storage and communications	4.5	4.4	4.4	4.5	4.5
Restaurants and hotels	1.8	1.8	1.7	1.8	1.8
Financial intermediation	6.3	6.6	7.0	7.3	8.5
Real estate	5.8	5.9	6.1	6.0	6.1
Other	16.4	17.0	17.6	18.3	19.3
GDP by industry at constant prices (annual percentage change)					
Agriculture, forestry and fishing	4.2	4.5	4.0	4.2	4.0
Industry (including mining and quarrying, manufacturing, and electricity)	10.8	7.9	7.6	6.9	5.9
Construction	9.8	9.8	9.7	9.1	6.8
Services	9.5	8.0	8.3	7.8	8.3
Wholesale and retail trade	12.5	10.3	10.5	9.7	6.1
Transport, storage and communications	9.7	6.1	6.6	6.5	6.1
Restaurants and hotels	5.1	6.5	3.9	5.8	6.2
Financial intermediation	7.7	9.4	10.6	9.9	15.9
Real estate	7.4	4.7	7.2	2.0	3.8
Other	9.6	8.0	7.3	8.5	9.2

Source: National Bureau of Statistics of China, *Statistical Yearbook (2015)*; and National Bureau of Statistics of China online information, "National Data: Quarterly Data". Viewed at: http://data.stats.gov.cn/english/easyquery.htm?cn=B01.

1.9. At the end of 2014, the number of employed people in China was 772.5 million, and employment in urban areas was 393 million. Of the total employed population, 40.6% were employed in the tertiary sector, 29.9% in the secondary sector and 29.5% in the primary sector. The urban unemployment rate registered was 4.1% at year end, roughly the same as in every year since 2010. The average annual wage of employed persons in state-owned units was RMB 57,296, with wages ranging from RMB 94,943 in the financial industry to RMB 27,782 in agriculture, animal husbandry, forestry and fishing.[7]

1.2 Fiscal Policy and Structural Reform

1.2.1 Fiscal policy and related issues

1.10. China continued to apply a proactive fiscal stance during the period under review. In the authorities' view, the implementation of proactive fiscal policies has played an important role in stabilizing economic growth and adjusting the economic structure in China in recent years. They consider that fiscal policy has been successfully used as an automatic stabilizer and counter-cyclical regulator, thus helping achieve sustained and steady economic and social development. In accordance with IMF estimates, the 2015 budget implied a positive fiscal impulse of about 0.4 percentage points of GDP.[8] The fiscal deficit reached 2.1% of GDP in 2014 and 2.4% of GDP in 2015 (Table 1.3). Expenditure increased by 13.2% in 2015, while revenue rose by 5.8%. The share of general Government debt in GDP increased from 41.1% in 2014 to 43.9% in 2015.

Table 1.3 Government operations, 2011-15

	2011	2012	2013	2014	2015[a]
Total government balance (RMB billion)[b]	-850	-800	-1,200	-1,350	-1,620
Central government balance (RMB billion)	-650	-550	-850	-950	-1,120
Local government balance (RMB billion))	-200	-250	-350	-400	-500
Government balance as share of GDP (%)	-1.8	-1.5	-2.0	-2.1	-2.4
Total government revenue (RMB billion)	10,387	11,725	12,921	14,037	15,222
Central government (%)	49.4	47.9	46.6	45.9	45.5
Local government (%)	50.6	52.1	53.4	54.1	54.5

[7] National Bureau of Statistics of China (2016), "National Data: Quarterly Data". Viewed at: http://data.stats.gov.cn/english/easyquery.htm?cn=B01.

[8] IMF (2015), *Country Report No. 15/234: People's Republic of China, 2015 Article IV Consultation*, August 2015. Viewed at: http://www.imf.org/external/pubs/ft/scr/2015/cr15234.pdf.

	2011	2012	2013	2014	2015[a]
Total government expenditure (RMB billion)	10,925	12,595	14,021	15,179	17,577
Central government (%)	15.1	14.9	14.6	14.9	14.5
Local government (%)	84.9	85.1	85.4	85.1	85.5
Tax revenue (RMB billion)	8,973.8	10,061.4	11,053.1	11,917.5	12,489
Central government (%)	54.2	53.0	51.2	50.4	49.8
Local government (%)	45.8	47.0	48.8	49.6	50.2
Indirect taxes (% of total tax revenue)	74.6	74.7	73.8	73.1	71.4
Domestic value-added tax	27.0	26.3	26.1	25.9	24.9
Domestic consumption tax	7.7	7.8	7.4	7.5	8.4
VAT and consumption tax from imports	15.1	14.7	12.7	12.1	10.0
VAT and consumption tax rebate from exports	-10.3	-10.4	-9.5	-9.5	-10.3
Business tax	15.2	15.7	15.6	14.9	15.5
City maintenance and construction tax	3.1	3.1	3.1	3.1	3.1
House property tax	1.2	1.4	1.4	1.6	1.6
Stamp tax	1.2	1.0	1.1	1.3	2.8
Urban land use tax	1.4	1.5	1.6	1.7	1.7
Land appreciation tax	2.3	2.7	3.0	3.3	3.1
Vehicle purchase tax	2.3	2.2	2.3	2.4	2.2
Tariffs	2.9	2.8	2.4	2.4	2.0
Farm land occupation tax	1.2	1.6	1.6	1.7	1.7
Deed tax	3.1	2.9	3.5	3.4	3.1
Other tax revenue	1.1	1.5	1.5	1.5	1.6
Direct taxes (% of total tax revenue)	25.4	25.3	26.2	26.9	28.6
Corporate income tax	18.7	19.5	20.3	20.7	21.7
Individual income tax	6.7	5.8	5.9	6.2	6.9

a Data for 2011-14 are final accounts; data for 2015 are executed budget figures, since the final accounts for the year had not been completed when this report was drafted.

b The government balance does not equal revenue minus expenditure directly. The difference is explained mainly by the contribution from, or replenishment of, the Budget Stabilization Fund and the use of carry-over or balance funds, among other elements.

Source: National Bureau of Statistics of China, *China Statistical Yearbook* (various issues); and information provided by the authorities.

1.11. The IMF considers that the official budget deficit is not a good indicator of the fiscal stance since fiscal developments continue to be dominated since 2008 by off-budget activity, mainly off-budget spending. IMF staff has estimated an augmented deficit (including off-budget activities) of some 10% of GDP. It was found that government debt including off-budget activity rose to some 57% of GDP as of end-2014.[9]

1.12. Partly in response to the need to control off-budget spending and to consolidate the budget, the Standing Committee of the National People's Congress adopted and approved a new Budget Law in August 2014. This Law aims at strengthening budget management and supervision, by establishing and improving a standardized and more transparent budget system. It mandates that State budgets at each of the five government levels, with the national budget consisting of the central budget and local budgets.[10] The Law also specifies that a local general budget at any level must consist of the budget of the government at the corresponding level and the aggregate general budget at the next lower level. During budget implementation, governments may generally not introduce new measures to increase or reduce revenue or to increase expenditure. If such a policy or measure is deemed indispensable and a budgetary adjustment is required, a request must be submitted to the Standing Committee of the National People's Congress at the same level for examination and approval.[11]

1.13. The authorities continue to consider tax reform as an ongoing priority. During the period under review, they advanced in the implementation of the VAT reform and the elimination of double taxation. They estimate that the replacement of the business tax with VAT resulted in lower taxes of RMB 140 billion and RMB 191.8 billion in 2013 and 2014, respectively. Measures to reduce charges across the board were also implemented; charges for administrative services and

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[9] IMF (2015), *Country Report No. 15/234: People's Republic of China, 2015 Article IV Consultation*, August 2015. Viewed at: http://www.imf.org/external/pubs/ft/scr/2015/cr15234.pdf.

[10] The five levels are: Central Government; provinces, autonomous regions and municipalities directly under the Central Government; cities divided into districts and autonomous prefectures; counties, autonomous counties, cities not divided into districts, and municipal districts; and townships, nationality townships and towns.

[11] Article 68 of the Budget Law of the People's Republic of China, adopted at the 10th Session of the Standing Committee of the 12th National People's Congress on 31 August 2014.

government funds for activities involving small and micro businesses were reduced or waived.[12] The authorities have stated that, while continuing to engage in a VAT reform process, they intend to focus reform on improving the personal income tax system to lower the tax burden on low- and middle-income households, as well as on strengthening resource taxation to help protect the environment, and on introducing a nationwide property tax.[13]

1.14. Since the last Review, changes have also been introduced to the central-local government income allocation system. For example, the Central Government increased the allowance to local governments for incremental export tax rebates borne by them in 2014, and stipulated that all incremental export tax rebates are to be borne by the Central Government from 1 January 2015 onwards.

1.15. During the review period, China rationalized spending by prioritizing government investment in central infrastructure, major state projects, trans-regional and cross-watershed projects, and projects with strong externalities, while seeking to adjust the orientation of investment elsewhere, by promoting the adoption of more market-oriented operational modes, such as the private-public (PPP) model. As relates to general expenditure, priority was given to public services and infrastructure and projects to support people's livelihood, in particular those which promote employment and entrepreneurship, and support education.

1.16. The Government is also seeking to accelerate the reform of the pension and the medical and health systems, and promote affordable housing. With respect to the reform of the pension system, in February 2014, the Ministry of Human Resources and Social Security and the Ministry of Finance jointly issued the Interim Measures for the Connection of Urban and Rural Pension Insurance Systems, in which stipulations were made as to the timing and approach to connect the two pension insurance systems, including the transfer of funds, the collection of pensions, and the handling of procedures. A reform of the pension insurance system for employees in government agencies and public service units started to be implemented in October 2014.

1.2.2 Structural reform measures

1.17. Some of the main structural changes which China intends to implement in the near future are included in the Outline of the 13th Five-Year Plan (2016-2020) as endorsed by the National People's Congress, which calls for: an administration management reform; the promotion of private sector participation in the economy, while keeping the preponderance of public ownership; state-owned enterprises (SOEs) reform; less government intervention and administration approvals; the promotion of competition; fiscal reform; promoting financial sector reform to allow more private capital participation in banking, and expanding the provision of financial services to SMEs and rural areas; making the exchange rate and interest rate more market-determined; expanding employment; and stabilizing prices, among other goals (Table A1.2)

1.18. China continues to promote private participation in the economy as an integral part of the process of structural reform. The authorities have noted in the context of the present Review that, during the period covered by it, 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 also been increasing. By end-2015, 19.1 million private enterprises were registered nationwide, a year-on-year increase of 23.4%, with registered capital of RMB 90.6 trillion, a year-on-year increase of 52.9%. By end-2015, the total number of individual industrial and commercial entities reached 54.1 million, a year-on-year increase of 8.5%, with registered capital of RMB 3.7 trillion, a year-on-year increase of 26.1%. There were 280 million people engaged in individual industrial and commercial undertakings, 31 million more than at the end of 2014. With respect to trade, the latest figures available show that, in 2014, the total value of exports by private enterprises reached US$443.8 billion, representing 41.8% of total export value. The value of imports by private enterprises reached US$274.1 billion, and accounted for 28.6% of total import value.

[12] In 2015, a total of 106 central administrative charges and five governmental funds were cancelled, terminated or exempted, and 17 charging standards were lowered. The authorities estimate that this may reduce the burden for enterprises and individuals by some RMB 57 billion a year.
[13] IMF (2015), *Country Report No. 15/234: People's Republic of China, 2015 Article IV Consultation*, August 2015. Viewed at: http://www.imf.org/external/pubs/ft/scr/2015/cr15234.pdf.

1.19. The Communiqué of the Third Plenum of the 18th CPC Central Committee, released on 12 November 2013, outlines a path for China's market-oriented reforms over the 2014-2020 period. The Communiqué stresses that reforms should allow the market to play a decisive role in allocating resources, and calls for further reforms of China's inward and outward investment regime. On 15 November 2013, the CPC released the Decision on Certain Major Issues Concerning the Comprehensive Deepening of Reform, a 60-point reform blueprint, which expanded on most of the issues mentioned in the Communiqué. The Decision calls for a number of reforms in the financial system including: promoting qualified private capital to set up small and medium-sized banks; the establishment of a deposit insurance system for depositors; a multi-tier capital market; a market-based exit mechanism for financial institutions; and changing the system for companies to launch initial public offerings (IPOs) from an approval-based one to a registration-based system. The Decision makes reference to liberalizing the exchange rate, the capital account, and deposit interest rates and includes a reform proposal with respect to SOEs, which are to increase the proportion of their operational income to be allocated to public finance to 30% by 2020 (Table A1.2). The Decision also calls for the elimination of unreasonable regulations and hidden market access barriers for private enterprises, encourages private-public sector ventures, calls for more public disclosure of SOE finances and for an improvement of the enterprise bankruptcy system.

1.20. The authorities have indicated that, during the period under review, the State Council has tried to lower market access barriers, establish transparent market rules, and create an investment environment with rights, opportunities and rules. In November 2014, the State Council put forward measures to further liberalize market access, facilitate investment and financing, promote investor diversification, and improve the price formation mechanism in areas such as public services, natural resources and the environment, and ecological construction and infrastructure.[14] To promote public-private projects, the National Development and Reform Commission (NDRC) issued the Guiding Opinions on Conducting Public-Private Partnership in 2014[15], and the Guiding Opinions on Promoting the Model of Public-Private Partnership in Public Service Sectors in 2015.[16] The State Council also issued the Guiding Opinions on Promoting the Model of Public-Private Partnership in Public Service Sectors, which contain norms for pushing forward the PPP modality.[17] Since then, the pricing of about 80 items, mostly services, has been liberalized or delegated to lower levels.

1.21. During the review period, financial preferential measures were implemented to support SMEs, especially small and micro enterprises. From 1 January 2015 to 31 December 2017, small and low-profit enterprises with an annual taxable income not exceeding RMB 200,000 pay corporate income tax on only 50% of their taxable income, at a rate of 20%.[18] This was further extended to small and low-profit enterprises with an annual taxable income over RMB 200,000 but not exceeding RMB 300,000 from 1 October 2015 to 31 December 2017.[19] Also, the VAT and business tax provisional exemption granted since 1 August 2013 to small and micro enterprises with monthly sales of no more than RMB 20,000 was extended to small and micro enterprises with sales of up to RMB 30,000 for the period from 1 October 2014 to 31 December 2015, and later further extended to 31 December 2017.[20] Small and micro enterprises are also exempt from the stamp tax on loan contracts signed with financial institutions from 1 November 2011 to 31 December 2017.[21] Since 1 January 2015, small and micro enterprises have been exempted from 42 items of administrative and undertaking fees collected by the central government.

[14] Guo Fa [2014] No. 60, 16 November 2014. Viewed at: http://www.gov.cn/zhengce/content/2014-11/26/content_9260.htm (in Chinese only).

[15] Fa Gai Tou Zi [2014] No. 2742, 2 December 2014. Viewed at: http://www.sdpc.gov.cn/gzdt/201412/t20141204_651014.html (in Chinese only).

[16] The Guiding Opinions on Promoting the Model of Public-Private Partnership in Public Service Sectors in 2015. Viewed at: http://www.sdpc.gov.cn/gzdt/201412/W020141204398139719768.pdf (in Chinese only).

[17] Guo Ban Fa [2015] No. 42, 19 May 2015. Viewed at: http://www.gov.cn/zhengce/content/2015-05/22/content_9797.htm (in Chinese only).

[18] Notice of the Ministry of Finance (MOF) and the State Administration of Taxation (SAT) on the Preferential Policy of Corporate Income Tax of Small and Low-profit Enterprises (Cai Shui [2015] No. 34)

[19] Notice of the MOF and the SAT on further Expanding the Scope of the Preferential Policy of Corporate Income Tax of Small and Low-profit Enterprises (Cai Shui [2015] No. 99).

[20] Notice of the MOF and the SAT on Continuing to Implement the Value-added Tax and Business Tax Policies for Small and Micro Enterprises (Cai Shui [2015] No. 96).

[21] Notice of the MPF and the SAT on Exemption from the Stamp Tax on Loan Contracts Signed between Financial Institutions and Small and Micro Enterprises (Cai Shui [2011] No. 105 and Cai Shui [2014] No. 78).

1.22. The authorities have noted that China continues to carry out measures concerning financial support to agriculture, rural areas and farmers. On 25 April 2014, the PBOC lowered the reserve requirements for county-level commercial banks in rural areas and rural cooperative banks by 2 and 0.5 percentage points respectively, which resulted in more liquidity available for loans. The PBOC also released the Guiding Opinions on Providing Financial Services to New Types of Agricultural Entities Including Family Farms. Financial institutions engaging in the agro-linked business were guided to support at least one new type of agricultural entity in counties of agricultural importance by providing comprehensive financial services in a one-to-one manner. Additionally, the PBOC provided banks with a new loan facility to offer credit to agriculture. By end-2014, outstanding agro-linked loans from financial institutions stood at RMB 23.6 trillion, 13% above the level the previous year and representing some 37% of GDP.[22]

1.23. Measures were introduced to discourage production in areas where there is overcapacity. In accordance with the Circular of the State Council on Publishing the Catalogue of Investment Projects subject to Government Approval (2014 Version) (Guo Fa [2014] No. 53)[23], projects in industries with excess capacity, such as the iron and steel, electrolytic aluminium, cement, plate glasses and vessels industries, are now subject to filing with local governments. The Circular further specifies that the above projects are strictly subject to the Guiding Opinions of the State Council on Resolving Overcapacity (Guo Fa [2013] No. 41)[24], under which local authorities and central departments are not allowed to approve any new capacity expanding projects in those areas.

1.24. A major change during the period under review is the introduction of a deposit guarantee scheme. The Regulations on Deposit Insurance were implemented on 1 May 2015. The core elements of the Chinese deposit insurance system include: a) universal coverage: the implementation of the scheme is compulsory for all types of financial institutions taking deposits established within the territory of China; b) limited compensation, with a cap of RMB 500,000; c) differentiated risk: a system combining a base coverage and rates of coverage according to risk will be implemented; d) it is financed by institutions: the deposit insurance funds are mainly comprised of insurance premiums paid by deposit financial institutions; e) maintenance of a surveillance system, including collecting and checking information, taking early-stage remedial actions and dealing with risks in a timely manner.

1.2.3 Monetary and exchange rate policy

1.2.3.1 Monetary policy

1.25. During the period under review, the People's Bank of China (PBOC) continued to build on the changes introduced in 2013, which included further steps toward interest rate liberalization, with financial institutions free to determine their lending rates. In March 2014, the PBOC removed the upper interest rate limit for small-amount foreign currency deposits within the China (Shanghai) Free Trade Pilot Zone. In May 2015, the PBOC removed the upper interest rate limit for small-amount foreign currency deposits nationwide, and cancelled the upper interest rate limit in October. Other important measures included the establishment of Short-Term Liquidity Operations (SLO) and a Standing Lending Facility (SLF), the extension of part of the matured three-year central bank bills, and an increase in the quota of central bank discount funds to provide liquidity to financial institutions. The authorities explained that the monetary policy stance remained neutral, and that going forward, the policy stance would remain the same.[25]

1.26. In 2014, the PBOC adjusted monetary policy initially to support the real economy while retaining the stability of the monetary aggregates and later to adjust it to the "New Normal". The PBOC implemented targeted cuts in the reserve requirement ratio (RRR) twice during 2014, and

[22] People's Bank of China (2015), *Annual Report 2014*. Viewed at: http://www.pbc.gov.cn/.

[23] Guo Fa [2014] No. 53, 31 October 2014. Viewed at: http://www.gov.cn/zhengce/content/2014-11/18/content_9219.htm (in Chinese only).

[24] Guo Fa [2013] No. 41, 6 October 2013. Viewed at: http://www.gov.cn/zwgk/2013-10/15/content_2507143.htm (in Chinese only).

[25] IMF (2015), *Country Report No. 15/234: People's Republic of China, 2015 Article IV Consultation*, August 2015. Viewed at: http://www.imf.org/external/pubs/ft/scr/2015/cr15234.pdf; and http://www.imf.org/external/pubs/ft/scr/2015/cr15234.pdf.

used differentiated RRRs to promote counter-cyclical adjustment.[26] The PBOC also lowered in an asymmetric manner deposit and loan benchmark interest rates in November 2014, with the one-year deposit benchmark interest rate (DBIR) reduced by 0.25% to 2.75%, while the one-year loan benchmark interest rate (LBIR) was lowered by 0.4% to 5.6%. The ceiling of the floating range of the deposit rate offered by financial institutions was adjusted to 1.3 times the benchmark interest rate. The PBOC guided the reduction of the 14-day repurchase interest rate four times in 2014, by a total of 60 base points. In 2015, the PBOC implemented five targeted cuts to the deposit RRR, and reduced the LBIR and the DBIR five times. The one-year loan and deposit benchmark interest rates were reduced accumulatively by 1.25 percentage points to 4.35% and 1.5% respectively.

1.27. During the review period, the PBOC used credit structure guidance to impact liquidity. It established an incentives mechanism for guiding financial institutions to raise the proportion of credit granted to rural projects, and to small and micro businesses.[27] In 2014, the PBOC put in place a new tool to provide liquidity to banks to provide credit to targeted sectors and regions, known as "credit-policy supporting central bank lending", with central bank lending quotas increased on several occasions. In addition, access to discounted agro-linked financing notes and financing notes of micro and small businesses at preferential rates was made available.

1.28. The last few years have witnessed a rapid increase in monetary indicators. Domestic credit expanded at an annual average rate of 16.1% between 2011 and 2014. At end-October 2015, the broad money supply (M2) stood at RMB 136.1 trillion, slightly over 200% of GDP, having increased by 13.5% year-on-year. At the same date, outstanding RMB and foreign currency loans totalled RMB 98.2 trillion (some 140% of GDP), up 14.4% year-on-year. On the other hand, the outstanding amount of RMB and foreign currency deposits was RMB 138.4 trillion (over 200% of GDP), up 12.5% year-on-year. The monthly weighted average interbank RMB lending rate for October stood at 1.99% and the monthly weighted average interest rate on bond pledged repo at 1.94%. There was also a steep increase in lending, spot bond and repo transactions in the interbank RMB market; in October 2015, these transactions had an average daily turnover of almost RMB 3.1 trillion, up 98.3% year-on-year.[28]

1.2.3.2 Exchange rate policy

1.29. China has continued to maintain a managed floating exchange rate regime, which takes a basket of currencies as reference. Since 2013, the PBOC has pushed forward reform to let the market play a more decisive role in exchange rate formation. The floating range of the RMB exchange rate has gradually been expanded, and the flexibility of the RMB exchange rate has increased. In April 2012, the trading band of the RMB/US$ exchange rate in the interbank spot foreign exchange market was expanded from 0.5% to 1%, and further to 2% in March 2014. By the end of January 2016, the intermediate RMB/US$ exchange rate was 6.5516, registering a depreciation of 6.6% from the end of 2014.

1.30. A number of steps leading to less market intervention were taken during the review period. On 1 July 2014, the management and control over the spread between US$ selling and buying RMB prices was cancelled and the banks were allowed to set them on the basis of market supply and demand. As from 11 August 2015, market makers began to provide an intermediate price (RMB against US$) to the Chinese Foreign Exchange Trading Centre every day before the inter-bank foreign exchange opens, which takes the closing rate of inter-bank foreign exchange of the previous day as a reference, and takes into account the supply and demand of foreign exchange as well as the fluctuation of the exchange rates of other major currencies. In 2015, direct trading between the RMB and the Swiss Franc was launched. The PBOC has also continued to promote direct trading between the RMB and other currencies such as the Australian dollar, the Euro, the Pound Sterling, the New Zealand dollar and the Singapore dollar.

[26] People's Bank of China (2015), *Financial Stability Report 2015*, p. 46. Viewed at: http://www.PBOC.gov.cn/english/130736/2946072/2015090616281480816.pdf.

[27] The PBOC employed the targeted reductions of the RRR ratio in 2014 to set up an incentives mechanism to help guide financial institutions to increase loans to the agro-linked sector and small and micro businesses. People's Bank of China (2015), *Financial Stability Report 2015*, p. 46. Viewed at: http://www.PBOC.gov.cn/english/130736/2946072/2015090616281480816.pdf.

[28] People's Bank of China (2015), *Financial Statistics*, October 2015. Viewed at: http://www.PBOC.gov.cn/english/130721/2989845/index.html.

1.31. From the launching of the exchange rate reform in 2005 to the end of 2015, the RMB/US$ exchange rate increased by 26.3%, the RMB/EUR exchange rate was up 39.7%, and the RMB/JPY was up by 32.3%. The nominal effective RMB exchange rate increased by 45.9% and the real effective RMB exchange rate was up by 56.2%. Since the second half of 2014, the RMB exchange rate has been falling somewhat, with the RMB/US$ intermediate price dropping by 0.36% in 2014, 5.77% in 2015, and 0.89% in January 2016.

1.32. In the course of the present Review, the authorities stated that they consider that the reform of the exchange rate formation mechanism has had a generally positive impact on the real economy, as reflected in the following aspects: a) it has helped shift the growth pattern towards domestic demand, in particular consumption, as shown by the fact that, in 2014, the contribution made by domestic demand to economic growth was 98.7%, up 9.7 percentage points compared with that of 2005; b) it has been conducive to economic restructuring, including a redistribution of sectoral weights in favour of services, the contribution of which to GDP increased by 6.7 percentage points between 2005 and 2014; c) it has contributed to make companies adapt to exchange rate risk and enhanced their ability to cope with it; d) it has contributed to reduce foreign trade and payments imbalances; e) it has promoted the rapid development of the foreign exchange market: as RMB exchange rates have become more flexible, the inter-bank foreign exchange market has realized a rapid growth in its trading volume and the foreign exchange market has played a greater role in allocating resources. Total trading on the inter-bank foreign exchange reached US$13.2 trillion in 2015, up 51.7% from 2014.

1.33. In a recent evaluation of China's exchange rate, IMF staff considered that a more flexible, market-determined exchange rate is needed to allow the market to play a more decisive role in the economy, rebalancing toward consumption, and maintaining an independent monetary policy as the capital account opens. They recommend a further widening of the fluctuation band and changes to how the central parity is set.[29] The authorities have noted that improving the exchange rate formation mechanism and opening up the capital account are among China's reform objectives. In this respect, since August 2015, the PBOC reformed the way in which the central parity of the RMB against the US$ is set, allowing it to act better as a benchmark price. They have also noted that China's goal is to establish an exchange rate mechanism based on market demand and supply, with a basket of currencies as reference, and flexible two-way movements.

1.2.4 Balance of payments

1.34. During the period under review, China continued to post a sizeable surplus in the current account of the balance of payments, which reflects the surplus of national savings over domestic investment. The current account surplus shrank between 2012 and 2013, from 2.5% of GDP to 1.6%, mainly on account of a sharp increase in imports of both goods and services, and due to a deterioration of the secondary income balances (Table 1.4). However, since 2014, the current account surplus has been in an upward trend. In 2014, the merchandise trade balance surplus increased to 4.2% of GDP due to a strong rise in merchandise exports, which exceeded the increase in imports and the current account deficit rose to 2.7% of GDP. The merchandise trade surplus increased sharply again in 2015, to US$567 billion, this time mainly on account of a sharp decrease in imports. The current account surplus reached US$330.6 billion which represented a 19.2% increase over the previous year, and was equivalent to 3% of GDP.

Table 1.4 Balance of payments, 2011-15

(US$ million)

	2011	2012	2013	2014	2015
Current account	**136,097**	**215,392**	**148,204**	**277,434**	**330,602**
Goods and services	**181,904**	**231,845**	**235,380**	**262,687**	**384,642**
Credit	2,008,852	2,175,092	2,355,595	2,524,238	2,331,192
Debit	1,826,949	1,943,247	2,120,216	2,261,552	2,044,652
Goods	**228,701**	**311,570**	**358,981**	**435,042**	**566,998**
Credit	1,807,805	1,973,516	2,148,589	2,243,761	2,142,754
Debit	-1,579,105	-1,661,947	-1,789,608	-1,808,720	-1,575,756
Services	**-46,797**	**-79,725**	**-123,602**	**-172,355**	**-182,356**
Credit	201,047	201,576	207,006	280,477	286,540
Debit	-247,844	-281,300	-330,608	-452,832	-468,896

[29] IMF (2015), *IMF Country Report No. 15/234: People's Republic of China, 2015 Article IV Consultation*, August 2015. Viewed at: http://www.imf.org/external/pubs/ft/scr/2015/cr15234.pdf.

	2011	2012	2013	2014	2015
Primary income	**-70,318**	**-19,887**	**-78,442**	**13,301**	**-45,363**
Credit	144,268	167,037	183,973	239,372	227,805
Debit	-214,585	-186,924	-262,415	-226,071	-273,167
Secondary income	**24,511**	**3,434**	**-8,733**	**1,446**	**-8,677**
Credit	55,570	51,167	53,162	41,127	35,938
Debit	-31,060	-47,733	-61,895	-39,681	-44,615
Capital and financial account	**-122,331**	**-128,317**	**-85,279**	**-169,174**	**-142,359**
Capital account	**5,446**	**4,272**	**3,052**	**-33**	**316**
Credit	5,621	4,550	4,452	1,939	512
Debit	**-174**	**-278**	**-1,400**	**-1,972**	**-196**
Financial account	**-127,777**	**-132,590**	**-88,331**	**-169,141**	**-142,675**
Assets	**-613,579**	**-399,586**	**-651,666**	**-580,634**	**-49,067**
Liabilities	**485,801**	**266,996**	**563,334**	**411,493**	**-93,608**
Direct investment	231,652	176,250	217,958	144,968	62,058
Assets	-48,421	-64,963	-72,971	-123,130	-187,801
Liabilities	280,072	241,214	290,928	268,097	249,859
Portfolio investment	19,639	47,779	52,891	82,429	-66,470
Assets	6,248	-6,391	-5,353	-10,815	-73,209
Liabilities	13,391	54,170	58,244	93,244	6,739
Financial derivatives and employee stock options	0	0	0	0	-2,087
Assets	0	0	0	0	-3,420
Liabilities	0	0	0	0	1,333
Other investment	8,733	-260,068	72,200	-278,758	-479,115
Assets	-183,604	-231,680	-141,962	-328,909	-127,577
Liabilities	192,338	-28,388	214,162	50,151	-351,538
Reserve assets (change)	**-387,801**	**-96,552**	**-431,379**	**-117,780**	**342,939**
Special drawing rights (change)	**465**	**505**	**203**	**61**	**-287**
Reserve position in the IMF (change)	**-3,449**	**1,616**	**1,114**	**977**	**911**
Foreign exchange reserves (change)	**-384,818**	**-98,673**	**-432,696**	**-118,818**	**342,316**
Net errors and omissions	**-13,766**	**-87,074**	**-62,925**	**-108,260**	**-188,244**

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

1.35. As at early 2016, the RMB is fully convertible for current account transactions, and partly convertible for some capital account transactions. Since 2011, all residents and non-residents have been able to use RMB for FDI; in the following years, several measures were adopted towards convertibility.[30] However, portfolio investment continues to be controlled by quotas and can only be done through Qualified Foreign Institutional Investors (QFIIs), and foreign borrowing is subject to a ceiling (short-term borrowing) or approval requirements (long-term borrowing).[31] The holding of cross-border accounts requires State Administration of Foreign Exchange (SAFE) approval.

1.36. During the period under review, the SAFE continued to take measures to liberalize the capital account and move towards convertibility. Some of the main measures include: expanding the convertibility scope for investment in securities; facilitating direct investment by allowing enterprises to directly handle business with a bank after first registration; allowing Chinese-funded enterprises that meet certain conditions to borrow abroad and carry out foreign exchange settlement transactions; and allowing discretional foreign exchange sales for foreign-invested enterprises. The authorities also sought to facilitate cross-border investment.

1.37. Another step towards capital account convertibility was the decision to further expand the RMB Qualified Foreign Institutional Investors (RQFII) pilot projects, with overseas RQFII pilot projects extended to 16 countries and regions and with a total investment quota of RMB 1.02 trillion, up from a quota of RMB 500 billion in 2014.[32] The authorities have also

[30] In 2011, access to RMB loans was extended to Chinese-invested enterprises with their foreign exchange earnings as guarantee. In 2012, restrictions on the opening of foreign exchange accounts and the use of capital were removed, while 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, were removed.

[31] Inward portfolio 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.

[32] In 2011, China launched the RMB Qualified Foreign Institutional Investors (RQFIIs) system and has since then raised the total RQFII quota several times, the latest in 2015 to RMB 1.03 trillion. 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, and insurance companies, registered in and operated in a total of 16 countries and regions (Hong Kong, China; the United Kingdom; Singapore; France;

continued to push forward the Qualified Domestic Individual Investors (QDIIs) system. By end-2015, 156 RQFIIs had been approved with a cumulative approved investment quota of RMB 444.3 billion. Also, by end 2015, 279 Qualified Foreign Institutional Investors (QFIIs) and 13 Qualified Domestic Institutional Investors (QDIIs) had been approved. Pilot capital liberalization measures (under the precondition that the risk is controllable) are currently being tried in the four Pilot Free Trade Zones.

1.38. In the context of the current review, the authorities have stressed the convenience of pushing forward the further convertibility of RMB capital account transactions. With respect to the management of cross-border capital flows, they stated that the focus should be shifted from administrative examination and approval to further monitoring and analysis and from the use of a positive list to the administration of a negative list. In fact, the CPC Proposals on Formulating the 13th Five-Year Plan call for RMB capital account convertibility to be orderly achieved, for a reduction to limitations on foreign exchange transactions, and for the introduction of a Negative List approach for foreign exchange management. The Proposals also call for the monitoring of the balance of payments to keep international payments balanced, and for two-way capital market openness and the gradual elimination of limitations on domestic and foreign investment.

1.39. With respect to the bidirectional opening up of capital markets, the authorities noted that the PBOC should further expand the scope and number of RQFIIs, increase investment types and quotas, and improve the convertibility of cross-border capital and financial trading. They also stated that the PBOC should establish foreign debt and capital flow management systems, strengthen the supervision of short-term capital flows and improve risk management linked to convertibility. In a recent assessment of China's capital account liberalization, the IMF noted that despite the opening measures, the non-FDI capital account remains subject to restrictions. For example, external borrowing is regulated and portfolio flows are primarily channelled through programmes subject to quotas and approvals.[33]

1.3 Developments in Trade and Foreign Direct Investment

1.3.1 Merchandise trade

1.40. China is the world's largest trader (excluding intra-EU trade). Although exports of goods in 2015 were over 20% higher than in 2010, their share of GDP, has, however, declined from 26.7% of GDP in 2010 to 20.9% in 2015. In 2015, exports contracted by 2.9%, to US$2.27 trillion, while imports declined by 14.2% with respect to 2014, reaching US$1.68 trillion. China's net merchandise trade surplus stood at 5.5% of GDP in 2015, on account of a sharper decline in imports than in exports. The share of imports in GDP fell to 15.5% in 2015. In the context of the current Review, the authorities reiterated that China is implementing policies to promote the balanced development of foreign trade through consumption-friendly policies to expand domestic demand and hence imports, while stabilizing exports.

1.41. In 2015, manufactured products remained the dominant component of China's exports, accounting for 94.3% of the total, slightly higher than in the previous year (Chart 1.1 and Table A1.3). Among manufactured products, office machines and telecommunication equipment and textiles and clothing continued to be China's main exports. Agricultural exports accounted for only 3.2% of the total exported. Exports under processing trade accounted for 35.0% of total exports in 2015. Manufactures accounted for 64.4% of China's imports in 2015 (Chart 1.1 and Table A1.4). China's main manufacturing imports include office machines and telecommunication equipment, chemicals and transport equipment. Fuels and other mining products accounted for 21.3% of China's imports in 2015 compared to 26.9% in 2014 (mainly due to a decline in the imports of fuels, from 16.2% in 2014 to 11.8% in 2015). Imports of agricultural products accounted for some 9.5% of the total. In 2015, imports under processing trade accounted for 26.6% of China's total goods.

1.42. In 2015, the main destinations for China's merchandise exports remained the United States; the EU; Hong Kong, China; the ASEAN countries; Japan; the Republic of Korea and Viet Nam

the Republic of Korea; Germany; Qatar; Canada; Australia; Switzerland; Luxembourg; Chile; Hungary; Thailand; Malaysia; and the United Arab Emirates).

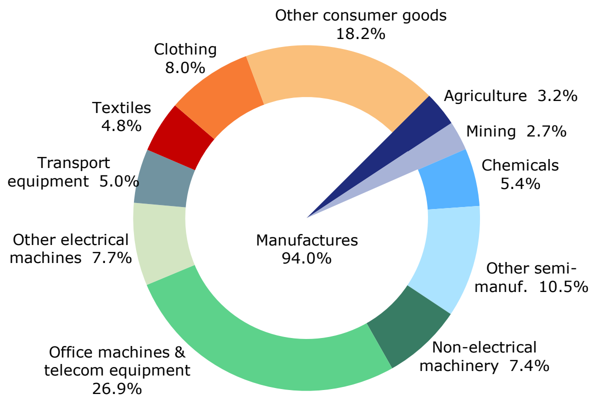
[33] IMF (2013), *IMF Country Report No. 13/211: People's Republic of China, 2013 Article IV Consultation*, July 2013. Viewed at: http://www.imf.org/external/pubs/ft/scr/2013/cr13211.pdf.

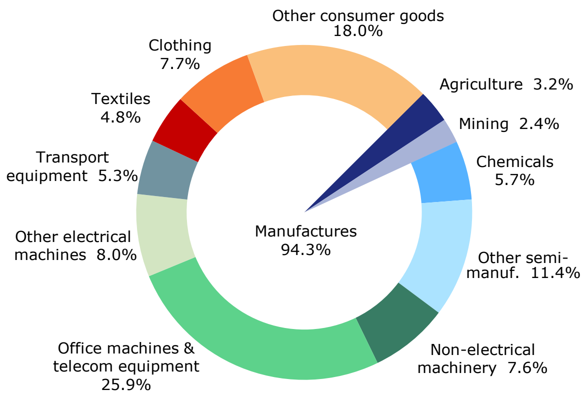
(Chart 1.2 and Table A1.5). The main sources of its imports were the EU; ASEAN countries; the Republic of Korea; the United States; Chinese Taipei; Japan; and Australia (Chart 1.2 and Table A1.6).

Chart 1.1 Product composition of merchandise trade, 2013 and 2015

2013 **2015**

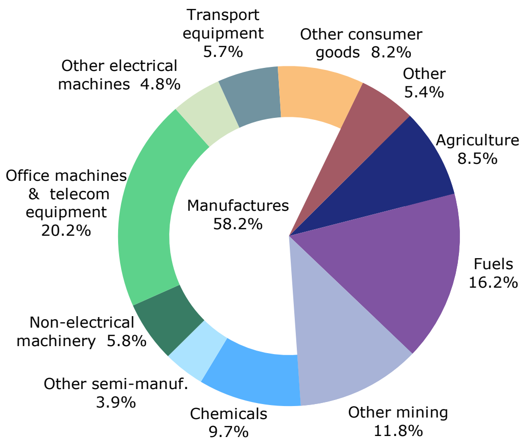
(a) Exports (f.o.b.)

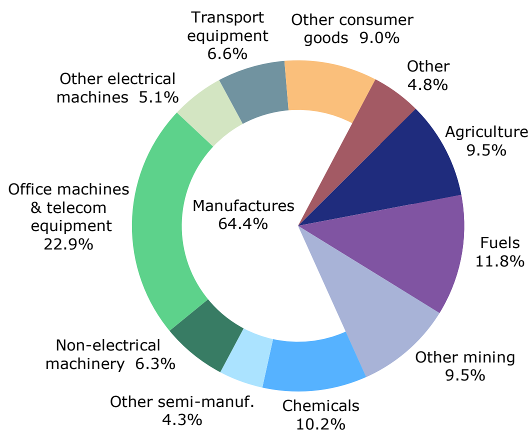




Total: US$2,209.0 billion **Total: US$2,281.9 billion**

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





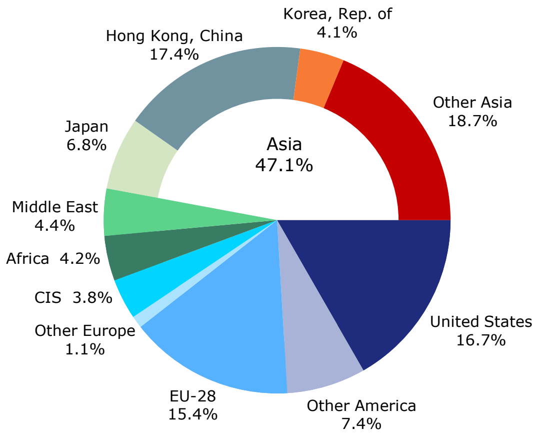
Total: US$1,950.0 billion **Total: US$1,681.7 billion**

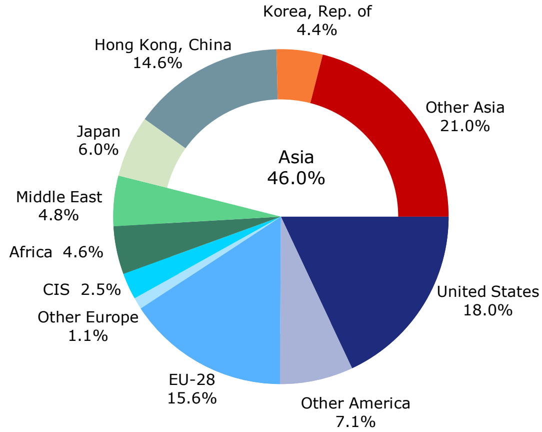
Source: UNSD, Comtrade database (SITC Rev.3).

Chart 1.2 Direction of merchandise trade, 2013 and 2015

2013 | **2015**

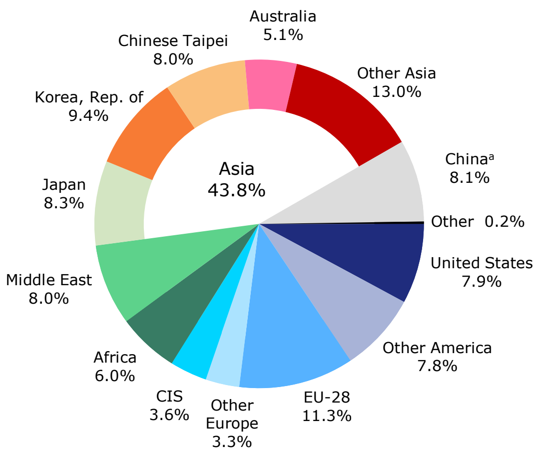
(a) Exports (f.o.b.)

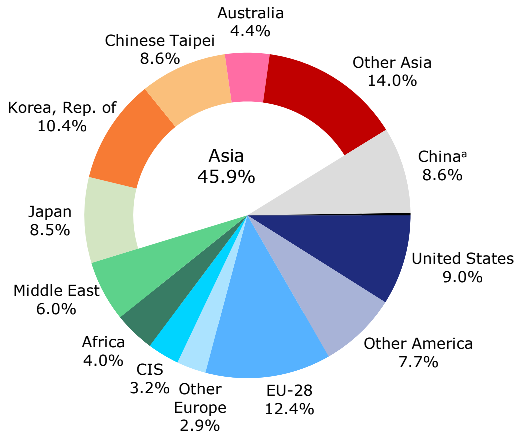




Total: US$2,209 billion | **Total: US$2,281.9 billion**

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





Total: US$1,950.0 billion | **Total: US$1,681.7 billion**

a Includes goods that have been exported from China and thereafter re-imported into China.

Source: UNSD, Comtrade database.

1.3.2 Trade in services

1.43. During the period under review, imports of services have continued to become increasingly important as a component of total imports. Imports of services have increased amidst a decline of imports of goods. Considering balance-of-payments figures, in 2015, services represented 22.9% of China's imports compared to 15.6% in 2013 (Table 1.5). The share of services in China's total exports has also increased, from 8.8% in 2013 to 12.3% in 2015. China's exports of travel, construction, telecommunications, financial and business services have increased their share of the total, while the share of transport, manufacturing and government services has fallen. Among imports, travel continued to gain considerable market share, accounting for 62.3% of total imports in 2015. Transport is another important item among services imports, accounting for 16.1% of the total.

Table 1.5 Composition of trade in services, 2011-15 (balance-of-payments basis)

(US$ million)	2011	2012	2013	2014	2015
Services balance	**-46,797**	**-79,725**	**-123,602**	**-172,355**	**-182,356**
Credit	201,047	201,576	207,006	280,477	286,540
Debit	-247,844	-281,300	-330,608	-452,832	-468,896
Manufacturing services on physical inputs	**26,339**	**25,625**	**23,178**	**21,305**	**20,275**
Credit	26,529	25,745	23,257	21,421	20,436
Debit	-190	-120	-79	-116	-161
Maintenance and repair services	**-**	**-**	**-**	**-**	**2,286**
Credit	-	-	-	-	3,605
Debit	-	-	-	-	-1,319
Transport	**-44,875**	**-46,949**	**-56,678**	**-57,915**	**-37,020**
Credit	35,570	38,912	37,646	38,243	38,594
Debit	-80,445	-85,862	-94,324	-96,158	-75,614
Travel	**-24,121**	**-51,949**	**-76,912**	**-129,282**	**-178,091**
Credit	48,464	50,028	51,664	105,380	114,109
Debit	-72,585	-101,977	-128,576	-234,662	-292,200
Construction	**10,996**	**8,627**	**6,773**	**10,485**	**6,455**
Credit	14,724	12,246	10,663	15,355	16,652
Debit	-3,728	-3,619	-3,890	-4,870	-10,197
Insurance and pension services	**-16,720**	**-17,271**	**-18,097**	**-17,880**	**-4,350**
Credit	3,018	3,329	3,996	4,574	4,976
Debit	-19,738	-20,600	-22,093	-22,454	-9,327
Financial services	**103**	**-40**	**-506**	**-409**	**-310**
Credit	849	1,886	3,185	4,531	2,334
Debit	-747	-1,926	-3,691	-4,940	-2,645
Charges for the use of intellectual property	**-13,963**	**-16,705**	**-20,146**	**-21,937**	**-20,938**
Credit	743	1,044	887	676	1,085
Debit	-14,706	-17,749	-21,033	-22,614	-22,022
Telecommunications, computer, and information services	**8,874**	**10,757**	**9,474**	**9,425**	**13,140**
Credit	13,908	16,247	17,098	20,173	24,549
Debit	-5,035	-5,490	-7,624	-10,748	-11,409
Other business services	**7,159**	**8,669**	**9,910**	**15,525**	**18,861**
Credit	56,365	51,023	57,235	68,895	58,403
Debit	-49,206	-42,354	-47,325	-53,370	-39,542
Personal, cultural, and recreational services	**-277**	**-439**	**-636**	**-699**	**-1,163**
Credit	123	126	147	175	731
Debit	-400	-564	-783	-873	-1,894
Government goods and services	**-312**	**-50**	**39**	**-973**	**-1,501**
Credit	753	990	1,228	1,054	1,064
Debit	-1,065	-1,040	-1,189	-2,027	-2,566

- Negligible.

Source: State Administration of Foreign Exchange, Time Series of the Balance of Payments of China. Viewed at: http://www.safe.gov.cn/wps/portal.

1.3.3 Foreign direct investment

1.44. During the period under review the Government has extended the policy of facilitating FDI inflows through the gradual removal of restrictions (Sections 2.5.1 and 2.5.2). It has also continued to seek to further attract FDI through a number of incentive schemes (Section 2.5.3) and through liberalization in the four existing Pilot Free Trade Zones.

1.45. China remained one of the world's largest recipients of FDI during the period under review. In 2013, FDI inflows reached US$117.6 billion, up 5.2% from 2012. In 2014, FDI inflows reached US$119.6 billion, 1.7% higher than in 2013. The main sectors attracting FDI in 2014 were manufacturing (33.4% of the total), real estate (29%), leasing and business services (10.4%), and wholesale and retail trade (7.9%) (Table 1.6).

Table 1.6 Inward foreign direct investment by sector, 2012-14

	2012	2013	2014	
	Foreign capital actually used (US$ million)	Foreign capital actually used (US$ million)	Foreign capital actually used (US$ million)	% of total FDI
Total	**111,716.1**	**117,586.2**	**119,561.6**	**100.0**
Agriculture, forestry and fishery	2,062.2	1,800.0	1,522.3	1.3
Mining	770.5	365.0	562.2	0.5
Manufacturing	48,866.5	45,555.0	39,938.7	33.4
Electricity, gas and water	1,639.0	2,429.1	2,202.9	1.8
Construction	1,181.8	1,219.8	1,239.5	1.0
Transport, storage and post	3,473.8	4,217.4	4,455.6	3.7
Information transmission, computer and software	3,358.1	2,880.6	2,755.1	2.3
Wholesale and retail trade	9,461.9	11,511.0	9,463.4	7.9
Hotels and catering services	701.6	771.8	650.2	0.5
Financial intermediation	2,119.5	2,330.5	4,182.2	3.5
Real estate	24,124.9	28,798.1	34,626.1	29.0
Leasing and business services	8,211.1	10,361.6	2,485.9	10.4
Scientific research, technical services, geological prospecting	3,095.5	2,750.3	3,254.7	2.7
Water conservancy, environment, public facilities	850.3	1,035.9	573.5	0.5
Other	1,799.8	1,560.3	1,649.4	1.4

Source: Data provided by the Chinese authorities.

1.46. During the period under review Hong Kong, China continued to be the main source of FDI into China, accounting for 73.4% of total FDI in 2015. It was followed by Singapore; Chinese Taipei; the Republic of Korea; Japan; the United States; Germany; and France (Table 1.7).

Table 1.7 Inward foreign direct investment by country, 2012-15

(US$ billion)

	2012	2013	2014	2015	
					% of total FDI
Total	**111.72**	**117.59**	**119.56**	**126.27**	**100.0**
Hong Kong, China	71.29	78.30	85.74	92.67	73.4
Singapore	6.54	7.33	5.93	6.97	5.5
Chinese Taipei	6.18	5.25	5.18	4.41	3.5
Korea, Rep. of	3.07	3.06	3.97	4.04	3.2
Japan	7.38	7.06	4.33	3.21	2.5
United States	3.13	3.35	2.67	2.59	2.1
Germany	1.47	2.10	2.07	1.56	1.2
France	..	0.76	0.71	1.22	1.0
United Kingdom	1.03	1.04	1.35	1.08	0.9
Macao, China	..	..	..	0.89	0.7
Netherlands	1.14	1.28	0.64	..	..
Other	10.49	8.06	6.97	7.63	6.0

.. Not among the 10 main investors in that year.

Note: Figures refer to foreign capital actually used.

Source: MOFCOM online information.

1.47. During the period under review, China continued to step up outward FDI, with the main destination being Hong Kong, China, followed by the United States, as shown in Table 1.8. Most OFDI took place in the areas of leasing and commercial services, wholesale and retailing, mining, finance, manufacturing, real estate, transport, construction, software and IT technology and services.

Table 1.8 Main destinations of outward foreign direct investment, 2014

Country/Region	Value (US$ billion)
Total	**111.13**
Hong Kong, China	70.87
United States	7.60
Luxembourg	4.58
British Virgin Islands	4.57
Cayman Islands	4.19
Australia	4.05
Singapore	2.81

Country / Region	Value (US$ billion)
United Kingdom	1.50
Germany	1.44
Indonesia	1.27
Netherlands	1.03
Laos	1.03
Pakistan	1.01
Others	5.18

Source: Data provided by the authorities.

1.3.4 Outlook

1.48. The authorities will continue pursuing a rebalancing strategy to promote growth hinging more on domestic demand, particularly private consumption, which they expect will play a major role in spearheading economic growth. On the supply side, the authorities have stated that they are intent on cutting surplus production capacity and inventories. They consider that, as China has entered a "New Normal", growth drivers have become more diversified. They also noted that continuous efforts will be made to promote a new industrialization, an information-oriented development, as well as urbanization and agricultural modernization. They expect that in-depth structural reform, continuing with the policy of opening up the economy and promoting innovation, will allow China to attain annual growth rates of around 6.5-7%.

1.49. The authorities are aware that some risks to future growth and development persist, including increasing aggregate debt levels, rising production costs, insufficient financing for small and micro businesses, oversupply in some industries and shortages in others, and structural bottlenecks. The authorities have identified a roadmap to deal with risks and achieve stable medium-run growth; it includes the following measures: a) continuing to implement a proactive fiscal policy and a sound monetary policy; b) using targeted regulation; c) improving local government debt financing mechanisms; d) continuing to carry out structural tax reductions and removing fees; e) implementing tax preferential policies for small and micro businesses; f) increasing financial support to the real economy, especially by increasing credit support to key and weak areas in the economy; g) optimizing the credit structure; and h) promoting market-based pricing and more market-determined exchange rates.[34]

1.50. The IMF forecasts growth of 6.5% in 2016 and 6.2% in 2017.[35] These rates are slightly higher than those initially estimated in January (6.3% and 6%). The Fund expects consumer price inflation to remain moderate at around 1.8% in 2016 and 2% in 2017 due to low commodity prices and lower inflationary pressures. The current account deficit is forecast to be at around 2.6% of GDP in 2016.

[34] People's Bank of China (2015), *Annual Report 2014*, pp. 24-25. Viewed online at: http://www.PBOC.gov.cn/eportal/fileDir/image_public/UserFiles/english/upload/File/2014.pdf.

[35] IMF (2016), *World Economic Outlook Update*, April 2016. Viewed at: http://www.imf.org/external/pubs/ft/weo/2016/01/index.htm.

2 TRADE AND INVESTMENT REGIME

2.1 Institutional and Legal Framework

2.1. The National People's Congress (NPC) of the People's Republic of China and its Standing Committee exercise the legislative power in China. The NPC is composed of deputies elected from the provinces, the autonomous regions, the municipalities directly under the Central Government, the Special Administrative Regions, and the armed forces. Deputies are elected for a term of five years.[1] The number of deputies to the NPC and the procedures for their election are prescribed by law; according to which, the number of deputies to the NPC cannot exceed 3,000.[2] The NPC meets in session once a year.[3] The deputies elect the members of its Standing Committee, which has the power to interpret the Constitution and other laws, and enact and amend laws, with the exception of those enacted by the NPC. The Standing Committee of the NPC also has the faculty of ratifying or abrogating treaties and agreements concluded with foreign states. When the NPC is not in session, it may also exercise the following functions: partially supplement and amend laws; review and approve partial adjustments to the national economic and social development plans or to the state budget; and appoint Ministers.[4] Local people's congresses exercise legislative power at the local level, while local people's governments exercise the executive power.

2.2. 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 the Premier, Vice-Premiers, State Councillors, and Ministers, and has the power to remove them. The President promulgates the legislation adopted by the NPC or its Standing Committee, but does not have the power to veto it. The President is responsible for ratifying or abrogating treaties and important agreements concluded with foreign states.

2.3. The State Council (the Central People's Government) is the executive body and the highest organ of state administration. Led by the Premier, the State Council is composed of Vice-Premiers, State Councillors, Ministers in charge of ministries and Ministers in charge of commissions, the Auditor-General and the Secretary-General. A new cabinet took office in 2013.

2.4. China's judicial system consists of the Supreme People's Court, the local people's courts at different levels, and special courts dealing with, *inter alia*, military, railway and maritime issues. In 2014, three intellectual property courts, located in Beijing, Shanghai and Guangzhou, were established (Section 3.3.7).[5]

2.5. Under Chinese domestic legislation, the Constitution prevails over any other statute, followed by laws and administrative regulations (issued by the State Council); local regulations, autonomous regulations, and separate regulations; departmental rules (enacted by ministries or departments exclusively at the Central Government level)[6]; and local rules (enacted by the People's Government at the provincial, autonomous region and municipal levels directly under the Central Government and the People's Government of cities with districts or autonomous prefectures) (Box 2.1). Local rules and regulations may vary across regions, reflecting local differences. In this respect, the authorities have noted that the Legal Affairs Office of the State Council reviews local rules and regulations to ensure policy coherence and indicates those

[1] The 12th NPC was elected in 2013.

[2] Article 59 of the Constitution; Article 15 of the Electoral Law of the NPC and Local People's Congresses at All Levels, Order No. 27 of the President of the People's Republic of China; and Decision of the Standing Committee of the NPC on Revising the Organic Law of the People's Republic of China on Local People's Congresses at all Levels and Local People's Governments at all Levels; the Electoral Law of the People's Republic of China on the NPC and Local People's Congresses at all Levels and the Law of the People's Republic of China on Delegates to the NPC and Delegates to Local People's Congresses at all Levels, Order No. 33 of the President of the People's Republic of China.

[3] However, an interim session of the NPC may be convened at any time if the Standing Committee of the NPC deems it necessary or if one fifth or more of its deputies so propose.

[4] Article 67 of the Constitution.

[5] Decision of the Standing Committee of the NPC on Establishing Intellectual Property Courts in Beijing, Shanghai and Guangzhou, 31 August 2014. Viewed at: http://www.npc.gov.cn/npc/xinwen/2014-09/01/content_1877042.htm.

[6] Departmental rules are issued to clarify the application of laws, administrative regulations, decisions or orders of the State Council.

that need to be revised or eliminated.[7] Special Economic Zones may also develop regulations that can be applied in their jurisdiction, in accordance with the Legislation Law.

Box 2.1 Procedures to approve legislation in China

The Constitution
Only the NPC has the power to amend the Constitution. Amendments to the Constitution have to be proposed by the NPC Standing Committee or by one-fifth or more of the deputies to the NPC, and they must be passed by a majority of two-thirds of the vote.

Laws
The NPC enacts and amends fundamental laws, for instance those concerning criminal offences, civil affairs, and state organs. The NPC Standing Committee enacts and amends all other laws that are not enacted by the NPC. When the NPC is not in session, the Standing Committee may supplement and partially amend the laws normally enacted by the NPC; none of these changes can contradict the basic principles of the original law.

The Presidium of the NPC, the NPC Standing Committee, the State Council, the Central Military Commission, the Supreme People's Court, the Supreme People's Procuratorate, the special committees of the NPC, or a delegation of 30 or more NPC deputies may submit a legislative bill to the NPC. The Council of Chairmen, the State Council, the Central Military Commission, the Supreme People's Court, the Supreme People's Procuratorate, the special committees of the NPC, or ten or more members of the Standing Committee may submit a bill to the Standing Committee.[a]

The draft law, its drafting notes or the revisions of a bill that are to be discussed by the Standing Committee must be published for public comment on the NPC website (http://www.npc.gov.cn/), unless it is decided that such bill does not require public comment.[b] The period for soliciting public comments should, in general, be not less than 30 days.

A draft bill submitted for approval must be adopted by a simple majority of all the deputies of the NPC or by a simple majority of the full membership of the Standing Committee.

A law adopted by the NPC or its Standing Committee is promulgated by a presidential decree signed by the President. Thereafter, the law is published in the Bulletin of the NPC Standing Committee, on the official website of the NPC (www.npc.gov.cn), and in newspapers circulated at the national level.

Administrative Regulations[c]
The State Council formulates administrative regulations. Draft administrative regulations must be published for public comment, unless the State Council decides that it is not necessary.[b]

Administrative regulations are promulgated by a decree of the State Council signed by the Premier of the State Council. Once signed and promulgated, administrative regulations are published in the Gazette of the State Council, on the Government's legal information network (http://www.chinalaw.gov.cn/), and in newspapers circulated at the national level.

Local Regulations, Autonomous Regulations, Separate Regulations
Local regulations are formulated by the people's congresses or their standing committees in the provinces, autonomous regions and municipalities directly under the Central Government. The people's congresses of cities with districts and their standing committees may only formulate local regulations related to, *inter alia*, urban and rural construction projects, environmental protection, and the protection of historic and cultural sights. The people's congresses or their standing committees of the provinces and cities where special economic zones are located may formulate regulations to be enforced within the limits of the special economic zones. The people's congresses of the autonomous regions have the power to formulate autonomous regulations and separate regulations.

Local regulations governing "important matters" of an administrative area have to adopted by the people's congress of that area.[d]

Local regulations formulated by the people's congress of a province, autonomous region or municipality directly under the Central Government are promulgated, upon approval, by the Presidium of the congress through an announcement. Local regulations formulated by the standing committee of the people's congress of a province, autonomous region or municipality directly under the Central Government are, upon approval, promulgated by its standing committee through an announcement. Local regulations formulated by the people's congress of a city with districts or an autonomous prefecture are, upon approval, promulgated by its standing committee through an announcement. Autonomous regulations or separate regulations are, upon approval, promulgated by the standing committee of the local people's congress of the autonomous region, autonomous prefecture or autonomous county through an announcement.

Upon promulgation, local regulations and the autonomous regulations and special regulations of an autonomous region shall be published in the bulletin of the standing committee of the people's congress at the same level, on the official website of the NPC (www.npc.gov.cn), on the website of the local people's congress, and in newspapers circulated within the local administrative region.

[7] The Office reviews local regulations, local government rules and departmental rules, so that they do not contradict the Constitution, laws or administrative regulations or each other. Viewed at: http://www.chinalaw.gov.cn/article/jgzn/zyzn/.

Departmental Rules[e] The ministries and commissions of the State Council, the People's Bank of China, the State Audit Administration, and other organs endowed with administrative functions directly under the State Council may formulate departmental rules. Departmental rules are approved in an executive meeting of ministries or of a commission, and are promulgated by decrees signed by the heads of the departments. Thereafter, they are published in the Gazette of the State Council or the gazettes of the relevant departments, on the Government's legal information network (http://www.chinalaw.gov.cn/), and in newspapers circulated nationally.
Local Government Rules[e] The people's government of a province, autonomous region or municipality directly under the central government, a city with districts or an autonomous prefecture may formulate rules. Local government rules are approved at the executive meetings or plenary meetings of the respective governments, and are promulgated by a decree signed by the governor of the relevant province, the chairman of the relevant autonomous region, the mayor of the relevant city with districts, or the governor of the relevant autonomous prefecture. Thereafter, they are published in the gazette of the people's government at the same level, on the Government's legal information network (http://www.chinalaw.gov.cn/), and in newspapers circulated within the administrative region.

a For more details on differences in submitting a bill to the NPC or to the Standing Committee, refer to the Legislation Law, Chapter II, Section 2.
b The criteria specifying which bills require public comment are not specified in the Legislation Law.
c Administrative regulations usually come into effect 30 days after their publication, with the exception of those related to national security, foreign exchange and monetary policy, which may take effect on the day of their publication (Article 29 of Regulations on Procedures for the Formulation of Administrative Regulations, 1 January 2002. Viewed at: http://www.gov.cn/gongbao/content/2002/content_61545.htm).
d The Legislation Law does not define "important matters".
e These rules usually come into effect 30 days after their publication, with the exception of those related to national security, foreign exchange and monetary policy, which may take effect on the day of their publication (Article 32 of Regulations on Procedures for the Formulation of Rules, 1 January 2002. Viewed at: http://www.gov.cn/gongbao/content/2002/content_61556.htm).

Source: The Legislation Law, 15 March 2015. Viewed at: http://www.npc.gov.cn/npc/dbdhhy/12_3/2015-03/18/content_1930713.htm.

2.6. In order to promote transparency, draft laws and other draft regulations are published online for a 30-day period for public comments, except when, as per decision of the State Council, laws and regulations need to be kept confidential in accordance with articles 37 and 67 of the Legislation Law. Public comments can be submitted through the website of the Legislative Affairs Office of the State Council.[8] In addition, as of 2014, all rules, normative documents and other policy measures formulated by various departments of the State Council, as well as by local people's governments at all levels and their departments, that are related to or affect trade in goods, services and/or trade-related intellectual property rights must comply with international trade rules.[9] If necessary, in this regard, the different departments may consult with the Ministry of Commerce (MOFCOM).

2.7. The China Foreign Trade and Cooperation Economic Gazette, issued by MOFCOM, publishes China's trade-related laws, regulations and rules. Currently, laws, regulations, rules and draft rules published for comments are also published in the Gazette. However, the text is only available in Chinese, while the title is available in both English and Chinese.[10]

2.8. Administrative decisions may be challenged within six months by those that deem that their legitimate rights have been damaged.[11] Appeals are, in general, made to a department at higher level that the one that made the decision. In addition, since 2008, several independent administrative reconsideration commissions have been established throughout the country as a pilot programme. The authorities noted that, as of March 2014, the pilot programme had been implemented in 21 provinces, autonomous regions, and municipalities directly under the Central Government.

[8] China Legislative Information Network System. Viewed at: http://www.chinalaw.gov.cn and http://www.chinalaw.gov.cn/article/cayjzjxt/index.html.
[9] State Council, Guo Ban Fa [2014] No. 29, Notice of the General Office of the State Council on Further Enhancing the Compliance of Trade Policies.
[10] China Foreign Trade and Cooperation Economic Gazette. Viewed at: http://english.mofcom.gov.cn/article/policyrelease/gazette/201509/20150901125925.shtml.
[11] Administrative Procedure Law (last amended in 2014). Viewed at: http://www.npc.gov.cn/wxzl/gongbao/2014-12/23/content_1892467.htm (in Chinese only).

2.9. Complaints from foreign-invested enterprises (FIEs) are dealt with by the Complaint Coordination Office for Foreign-invested Enterprises and the National Complaint Centre for Foreign-invested Enterprises, both under MOFCOM.[12] Between January 2014 and end-2015 six complaints were filed by foreign investors.

2.2 Trade Policy Framework and Objectives

2.2.1 Institutional framework

2.10. The National Development and Reform Commission (NDRC) is in charge of designing China's overall national economic and social development policy. The NDRC is also responsible for: conducting research and setting objectives and policies on economic reform, such as those included in the Five-Year Plans; and for designing the foreign direct investment (FDI) policy. MOFCOM is mainly responsible for the coordination and implementation of trade-related, investment and economic cooperation policies. The Ministries of: Agriculture, Environmental Protection, Finance, Industry and Information Technology, and Transportation are also involved in the formulation and implementation of trade policy.

2.11. A major institutional reform in 2013 was the establishment of the National Leading Group for Comprehensive Deepening Reform, which is in charge of outlining a roadmap for reforms and coordinating their implementation.[13] Six subgroups were established under the Group to undertake this task.[14] MOFCOM is involved in the subgroup dealing with economic reform and environmental protection.

2.2.2 Trade policy formulation and objectives

2.12. China's economic, trade, investment and development policies are outlined in a number of legal instruments, including Central Government Five-Year Plans, sectoral and provincial Five-Year Plans and different Catalogues that provide guidance on the implementation of the overall policies, listing, *inter alia*, those products that are subject to licences or export taxes; industries that can benefit from preferential treatment; and sectors in which investment is encouraged, permitted, or prohibited. China's main trade-policy objectives have not changed substantially since the last review in 2014; according to the authorities, China is prepared to continue liberalizing its trade and investment regime to reshape its economy. China considers that the multilateral trading system (MTS) plays a leading role in China's process of opening up, and RTAs are viewed as a complement to the MTS.

2.13. The authorities indicated that China will continue its policy of "opening up", focusing on: the modernization of existing industries; the development of clean and knowledge-based industries; and the services sector. They also noted that China remains concerned about: overcapacity in certain industries, energy conservation, and the protection of the environment. In this respect, the authorities stated that they are guiding FDI into emerging industries, high-tech industries, energy conservation and environmental protection industries. These goals have been reflected in the latest 2015 Investment Catalogue – which encourages investment in those sectors where capital is needed, and discourages and prohibits investment in areas where there is overcapacity – and in the expansion of the China (Shanghai) Pilot Free Trade Zone (CSPFTZ), launched in 2013, and the establishment of other pilot free trade zones (in Guangdong, Tianjin and Fujian). Through these pilot projects China is exploring, *inter alia*, the establishment of a new foreign investment regulatory framework, based on granting pre-establishment national treatment (i.e. no approval required at the time of establishment) to foreign investment in activities not included in a negative list.

2.14. China is also promoting its "Going Abroad Policy", as outward direct investment is considered a way to promote trade. The Belt and Road Initiative aims at, *inter alia*, promoting

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

[13] This group was established as a result of a decision taken by the Third Plenary Session of the 18th National Congress of the Communist Party of China (CPC) held in November 2013.

[14] The six subgroups are: i) economic reform and environmental protection; ii) democracy and rule of law; iii) cultural issues; iv) social issues; v) reform of the Party's building system; and vi) disciplinary inspection (anti-corruption).

connectivity and cooperation through the development of infrastructure among countries on the original Silk Road through Central Asia, West Asia, the Middle East and Europe. The Chinese Government has also encouraged Chinese companies, including state-owned enterprises (SOEs), to invest abroad.

2.15. The Decision on Major Issues Concerning Comprehensively Deepening Reforms, issued after the Third Plenary Session of the 18th National Congress of the CPC in 2013, has also shaped China's trade and investment policies during the period under review, even though the focus of this Decision was mainly on judicial reforms. These legal reforms are considered necessary for China's continued economic reform process and growth. The aim is to create a more independent legal system that can support economic reform. Regarding trade and commercial policy reform, the Decision included the following changes: a) the reform of the domestic trading and circulation system (Section 3)[15]; b) the reform of the investment regime (inward and outward); c) the acceleration of the implementation of free-trade agreements; d) the acceleration of the development of the CSPFTZ; and e) the opening up of inland and border areas.[16]

2.16. More recently, at the meeting of the Chinese Communist Party's Central Committee (26-29 October 2015), China's leaders restated their intention of implementing a more proactive strategy of opening up and attracting foreign investment and foreign technologies. At the meeting, several "opinions" were examined and adopted, *inter alia*: a) Opinions on the Implementation of a Market Access Negative List System for Investment; b) Opinions on the Development of Open Borders; and c) Opinions on Promoting the Reform of the Price Mechanism.[17]

2.3 Participation in the World Trade Organization

2.17. China became a WTO Member on 11 December 2001. China's trade policies have reviewed five times. The last Review took place in July 2014. China is an observer to the Committee on Government Procurement and is in the process of negotiating its accession to the Plurilateral Agreement on Government Procurement. China presented its fifth offer to the Committee in December 2014.[18] The country is a participant in the Information Technology Agreement (ITA) and has agreed on the expansion of the ITA.[19] It is an observer to the Plurilateral Agreement on Trade in Civil Aircraft. On 1 April 2014 China submitted its notification of Category A commitments under the Agreement on Trade Facilitation and on 4 September 2015 China ratified the Trade Facilitation Agreement.[20]

2.18. China has participated actively in the Doha Development Agenda (DDA) negotiations. At the MC9, the authorities expressed China's support for the multilateral trading system (MTS), 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 DDA and eventually achieving the development objectives". At the MC10, the Chinese authorities reiterated their support for the MTS and its commitment to the Doha development mandate.

2.19. During the period under review, China submitted a large number of notifications to the WTO, which cover a wide range of agreements, including those on subsidies, state trading, and quantitative restrictions, areas in which China was lagging behind (Table A2.1). Nevertheless, notifications on domestic support remain pending. Already implemented changes and updates to laws and regulations in different areas, as well as the creation of new agencies (e.g. customs procedures, inspection of imports and exports, food safety, government procurement, and intellectual property) also require to be notified as an update or amendment to former WTO notifications.

[15] The goal is to: create a law-based business environment, remove market access barriers, improve resource allocation, and foster and facilitate domestic trade.

[16] This is an attempt to shift the exclusive focus of development, which has been concentrated in the eastern and coastal regions in the past three decades, to the inland and border areas of China.

[17] Xinhua News Agency, "Central Leading Group Comprehensively Deepen Reforms, 16th Meeting", 15 September 2015. Viewed at: http://www.gov.cn/xinwen/2015-09/15/content_2932105.htm.

[18] WTO document GPA/ACC/CHN/45, 5 January 2015.

[19] WTO document WT/L/956, 28 July 2015.

[20] WTO document WT/PCTF/N/CHN/1, 1 July 2014.

[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.

2.20. Between 1 January 2014 and 1 March 2016, China was involved in three cases under the WTO dispute settlement system; as a respondent in two cases and as a complainant in one. China was also involved as a third party in 17 cases brought to the Dispute Settlement Body (DSB) (Table A2.2).

2.4 Regional Trade Agreements

2.21. During the period under review, China signed FTAs with Australia and with the Republic of Korea. The agreements with Iceland and Switzerland entered into force in 2015. As at December 2015, China had signed 15 preferential trade agreements. China is a member of the Asia-Pacific Economic Cooperation (APEC) forum (1991), and a signatory to the Asia-Pacific Trade Agreement (APTA) (2001) and to the Association of Southeast Asian Nations (ASEAN) (2004).

2.22. Since its last Review in 2014, China has continued to deepen its integration with Hong Kong, China and with Macao, China through the signature of supplementary agreements to the Closer Economic Partnership Arrangements (CEPA) with Hong Kong, China and with Macao, China, in 2014.[22]

2.23. China continues to grant unilateral preferences to LDCs. As of 1 January 2015, China granted unilateral tariff preferences to 40 LDCs. The preferences granted to them vary: 24 LDCs were granted duty-free treatment on 97% of their tariff lines; 14 LDCs on 95% of their tariff lines; and the remaining 2 LDCs on 62% of their tariff lines. As of December 2015, duty-free treatment on 97% of tariff lines has been granted to 33 LDCs.

2.5 Foreign Investment Regime

2.5.1 Regulatory framework and market access

2.24. The main laws regulating foreign investment in China are the Company Law[23], last amended in 2013, and the three laws specifically related to FDI: the Law on Sino-Foreign Equity Joint Ventures, the Law on Sino-Foreign Cooperative Joint Ventures, and the Law on Wholly Foreign-Owned Enterprises, as well as their related administrative regulations and rules. MOFCOM is revising these three laws to combine them into one statute, the draft Foreign Investment Law.[24]

2.25. The Catalogue for the Guidance of Foreign Investment Industries (Investment Catalogue), which is revised periodically, is the main instrument used to guide FDI in China. The Catalogue lists the industries where FDI is encouraged, restricted or prohibited. Projects that do not fall into one of these three groups are "permitted".[25] 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" industries are those deemed to employ outdated technologies, over-exploit scarce natural resources or harm the environment. The "prohibited" category includes projects that pollute the environment, destroy natural resources or go against social and public interests. The NDRC and MOFCOM jointly issued a revised Catalogue for the Guidance of Foreign Investment Industries 2015 (the 2015 Investment Catalogue).[26] The 2015 Catalogue has been in force since April 2015 and replaced the 2011 Investment Catalogue. A

[22] The latest subsequent agreements are: the CEPA Agreement between mainland China and Hong Kong, China to achieve liberalization of trade in services in Guangdong (18 December 2014); the Mainland China and Hong Kong, China Closer Economic Partnership Arrangement, Agreement on Trade in Services (25 November 2015); the CEPA Agreement between mainland China and Macao, China to achieve liberalization of trade in services in Guangdong; and the mainland China and Macao, China Closer Economic Partnership Arrangement, Agreement on Trade in Services (25 November 2015) (Information provided by the authorities).

[23] Company Law of the People's Republic of China (Revised in 2013). Viewed at: http://www.fdi.gov.cn/1800000121_39_4814_0_7.html.

[24] Foreign Investment Law of the People's Republic of China (Draft for Public Comments). Viewed at: http://tfs.mofcom.gov.cn/article/as/201501/20150100871010.shtml (in Chinese), and at: https://www.uschina.org/sites/default/files/2015%20Draft%20Foreign%20Investment%20Law%20of%20the%20People%27s%20Republic%20of%20China_JonesDay_0.pdf (in English).

[25] Provisions on Guiding Foreign Investment of 11 February 2002. Viewed at: http://www.mofcom.gov.cn/article/zt_swfg/subjectby/200612/20061204133533.shtml.

[26] MOFCOM and NDRC, Catalogue for the Guidance of Foreign Investment Industries 2015 (2015 Amendment Order), Guo Fa [2015] No. 22. Viewed at: http://www.mofcom.gov.cn/article/b/c/201503/20150300911747.shtml (in Chinese).

clause in the 2011 Investment Catalogue stating that, if the State Council were to issue any special provisions or industrial policies that contradicted the Catalogue, the State Council's provisions and policies would prevail, was eliminated. In this regard, the 2015 Catalogue only states that the provisions stipulated in any of the preferential and free trade agreements signed by China shall prevail over the Catalogue.

2.26. The authorities consider that the revision of the Investment Catalogue denotes an important effort to comprehensively open up the Chinese economy to foreign investment. According to the information supplied by the authorities, the 2015 Catalogue includes a total of 423 entries, 48 less than the 2011 Catalogue. The authorities also noted that the number of restricted sectors was reduced from 79 in 2011 to 39 in 2015; while the number of encouraged sectors remained mainly unchanged (Box 2.2; Table A2.3; and Table A2.4). The revised Catalogue aims at channelling FDI towards industries that require restructuring through the use of new equipment and new and greener technologies. According to the authorities, the 2015 Catalogue was revised to open the economy mainly in the services sector but also in manufacturing; the revision is intended to promote the use of foreign investment in a more efficient manner.

Box 2.2 Summary of the major changes in the 2015 Investment Catalogue

Encouraged Category

Activities removed (or moved) from the encouraged category in the 2015 Catalogue:
Agriculture: planting of trees or bamboo and development of improved varieties; and development of new varieties of polyploid trees.
Manufacturing: tobacco industry (which is now included in the prohibited category); and papermaking and paper products industry totally removed.

Activities included in the encouraged category in the 2015 Catalogue:
Manufacturing: petroleum processing; manufacturing of raw chemical materials and chemical products; manufacturing of special-purpose equipment; manufacturing of computers, telecommunications and other electronic equipment.
Mining and energy: exploration; mining and ore dressing of minerals in acute shortage in China.
Services: production and supply of electricity, gas and water (e.g. construction and operation of power grids and sewage treatment plants); transport (e.g. construction and operation of trains); research and technology industries; and health and social services (e.g. care centres for the elderly).

Industries that are no longer restricted to Sino-foreign equity/cooperative joint venture operations or equity shareholding requirements (i.e. Chinese parties as the controlling shareholders) or for which these restrictions have been somewhat relaxed:
Agriculture: planting of traditional Chinese medicine herbs.
Manufacturing: manufacturing of general equipment; manufacturing of railway, vessels, aviation and aerospace, and other transportation equipment; manufacturing of electric machinery and of key auxiliary equipment for power transmission.
Mining and energy: development and application of enhanced oil recovery and other relevant new technologies; development and application of new technologies for oil exploration and exploitation in areas of geophysical prospecting; drilling; well logging; mud logging and down-hole operation.
Services: leasing and commercial services industries (e.g. accounting and auditing); water conservancy, environmental and public facilities management industries; transport (e.g. construction and operation of urban subway, light railway and other modes of track transport); entertainment (operation of performance sites).

Restricted Category

Activities removed from the restricted category:
In the manufacturing sector the number of items listed in the restricted category was largely reduced.
Manufacturing: beverages; tobacco (was moved to the prohibited category); printing and reproduction of recording media; petroleum processing, coking and nuclear fuel processing industries; manufacturing of chemical raw materials and chemical products; manufacturing of medical and pharmaceutical products; manufacturing of chemical fibre; smelting and rolling of non-ferrous metals; manufacturing of general-purpose equipment and special-purpose equipment.
Services: construction; transport; wholesale and retail; some financial services; legal consulting; photography services; recreational services; and real estate.

Activities included in the restricted category:
Manufacturing: the manufacturing of automobiles, special-use vehicles and motorcycles.
Services: general aviation companies for business flights, air sightseeing tours, institutions of higher learning, preschool education institutions and medical institutions.

Changes regarding the nationality of the controlling party and/or the percentage of foreign investment that is allowed.
Banking:

- a bank, as a single overseas financial institution and the affiliated parties under its control or joint control, is allowed to have a maximum of 20% participation in a single Chinese-funded commercial bank;

- multiple overseas financial institutions and the affiliated parties under their control or joint control are only allowed to have a 25% participation in a single Chinese-funded commercial bank; and
- overseas banking financial institutions may invest in rural small and medium-sized financial institutions.

Financial institutions were also included in the restricted category of the 2011 Catalogue; however, the 2011 Catalogue did not specify the investment requirement.

Prohibited Category

Activities removed from the prohibited category
Agriculture: research and development of genetically modified varieties; processing of green tea and special tea with China's traditional methods (famous tea, dark tea, etc.).
Manufacturing: manufacturing of open-lead-acid cells, mercury buttontype silver oxide cells, paste dioxide-zinc battery and nickel cadmium cells; bodiless lacquerware and of enamel products; production of carcinogenic, teratogenic, and other organic pollutant products.
Services: construction and operation of coal fired small power plants (of ≤ 300,000 kW) in a small grid; construction and operation of thermal plants with a single generator capacity of 100,000 kW or less; general map compilations; importation of books, newspapers and periodicals; management of golf courses and villas.

Activities included in the prohibited category
Agriculture: seed selection of genetically modified varieties.
Mining and energy: Production of nuclear energy.
Service: Construction and operation of coal-fired power plants (of ≤ 300,000 kW) in a large grid; construction and operation of thermal plants with a single generator capacity of 200,000 kW or less; wholesale and retail of tobacco leaves, cigarettes, re-dried tobacco leaves and other tobacco products.

Source: Information provided by the authorities.

2.27. Technology transfer is also at the core of China's FDI policy. Nonetheless, the authorities maintain that technology transfer is not a mandatory requirement for FDI to be approved. One of the main features of the 2015 Investment Catalogue is that several industries are no longer restricted to Sino-foreign equity/cooperative joint venture operations, or are no longer required to be controlled by Chinese shareholders. For instance, the requirement that Chinese shareholders should hold a dominant position was relaxed in key industries such as: e-commerce, chain-store operation, wholesale of refined oil products, insurance brokerage, and trust and finance companies.

2.28. The revision of the Investment Catalogue appears to be consistent with the goals of the 12th Five-Year Plan, which calls for a more efficient use of foreign investment in sectors such as modern agriculture, high and new technology, advanced manufacturing, energy conservation and environmental protection, new power sources, and modern service industries, areas in which foreigners should be encouraged to invest.[27]

2.29. A comparison between the 2011 and 2015 Catalogues is difficult, as the content of each category is somewhat different and the description/name of some activities has been updated to reflect technological changes. This is the case in industries such as the manufacturing of raw chemical materials, chemical products, and chemical fibres; and of computer, telecommunications and other electronic equipment. In other instances, only one activity within the industry has been removed from one of the categories, or industries may have been removed from the Catalogue because they are now subject to the same (restrictive) conditions as domestic industries. Furthermore, the Investment Catalogue is very specific, which makes comparing the two catalogues difficult. For instance, an activity encouraged in the 2011 Catalogue was the "manufacturing of large-scale digital integrated circuits with a line width of 0.18 microns or less", while in the 2015 Catalogue the activity that is encouraged is "the manufacturing of large-scale digital integrated circuits with a line width of 0.28 microns or less". Given the specificity of the type of changes, it is difficult to interpret what they mean in terms of market access. Moreover, the Chinese authorities have not clarified the policies in place to guide FDI into the "encouraged" sectors.

2.30. On 2 October 2015, the State Council issued an Opinion that calls for the design of two negative lists – one for market access, applying to both domestic and foreign companies, and another for foreign investment – the use of these lists will be gradually implemented.[28] The

[27] Chapter 52 of the 12th Five-Year Plan. Viewed at: http://dangshi.people.com.cn/GB/151935/204121/ (in Chinese only).

[28] Opinions of the State Council on Implementing a Market Access Negative List System. Online information. Viewed at: http://news.xinhuanet.com/politics/2015-10/19/c_1116863718.htm.

Opinion states that the development and implementation of the market access and foreign investment negative lists will adhere to the general concept of national security and will take into account regional development differences. It is not clear how these lists will relate to the investment catalogue that is currently used to guide investment.

2.31. FDI in the form of mergers and acquisitions (M&As) is subject to anti-trust reviews[29], which are intended to assess their impact on the market. In 2011, China issued guidelines to assess the impact of anti-trust reviews.[30] In addition, FDI involving investments in Chinese domestic enterprises might be subject to national security reviews if the FDI is related to defence, or is deemed to have an influence on national security. In 2011, the authorities took some steps to clarify the procedures and scope of these reviews.[31]

2.5.2 Examination and approval procedures

2.32. Foreign-invested projects (FIPs) in China are either subject to verification (approval) or to record-filing. In 2014, the NDRC released a document stipulating the procedures and requirements for the verification (approval) and record-filing of FIPs[32], which replaced the 2004 Interim Measures.[33] The document defines FIPs as: equity/cooperative joint ventures, wholly foreign-owned enterprises and foreign investment partnerships, as well as foreign enterprises merging with domestic enterprises, new investments in a foreign-invested enterprise and reinvestments by foreigners.

2.33. Projects subject to verification (approval) are those listed in the Catalogue of Investment Projects Subject to Government Verification[34], while most of the other projects not included in it are subject to record-filing. Verification (i.e. approval), requires the examination of the investment project, and a number of conditions need to be met, including those related to the environmental impact of the project and to land use. In contrast, record-filing is a simplified process handled by the competent local authorities. However, the local authorities may consider that a FIP does not qualify for record-filing. In these cases the relevant authority needs to issue a written opinion specifying the reasons for the decision within seven working days.[35] The authorities noted that, in general, FIPs are subject to the same requirements as domestic investors when filing for an investment project. Record-filing requires an applicant to establish an enterprise; apply for a business licence; register with the relevant authorities (taxation, customs, foreign exchange and

[29] The administrative regulations with regard to FDI involving M&As include: Article 31 of the Anti-Monopoly Law, 1 August 2008. Viewed at: http://www.gov.cn/flfg/2007-08/30/content_732591.htm (in Chinese only); Provisions of the State Council on the Thresholds for Declaring Concentration of Business Operators, 3 August 2008. Viewed at: http://www.gov.cn/zwgk/2008-08/04/content_1063769.htm (in Chinese only); the Regulations on Mergers and Acquisition of Domestic Enterprises by Foreign Investors, 22 June 2009. Viewed at: http://www.mofcom.gov.cn/article/b/f/200907/20090706416939.shtml (in Chinese only); Measures on the Examination of Concentrations of Undertakings, 1 January 2010. Viewed at: http://fldj.mofcom.gov.cn/article/c/200911/20091106639145.shtml (in Chinese only); Measures on the Notification of Concentrations of Undertakings, 1 January 2010. Viewed at: http://fldj.mofcom.gov.cn/article/c/200911/20091106639149.shtml (in Chinese only); and the Provisions on National Security Review of Acquisitions of Domestic Enterprises by Foreign Investors, 1 September 2011. Viewed at: http://www.mofcom.gov.cn/aarticle/b/c/201108/20110807713530.html (in Chinese only).

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

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

[32] The Administrative Measures for the Approval and Record-Filing of Foreign-Invested Projects (FIPs), NDRC [2014] No. 12. Viewed at: http://www.sdpc.gov.cn/zcfb/zcfbl/201405/W020140521524444536751.pdf; and Decision on Revising Certain Articles of the Administrative Measures for the Verification and Approval and Record-Filing of Outbound Investment Projects and the Administrative Measures for the Verification and Approval and the Record-Filing of Foreign Investment Projects, NDRC [2014] No. 20. Viewed at: http://www.sdpc.gov.cn/gzdt/201501/W020150115586334332592.pdf.

[33] The Interim Measures for the Administration of Examination and Verification of Foreign Investment Projects, NDRC Decree [2004] No. 22. Viewed at: http://www.gov.cn/gongbao/content/2005/content_64246.htm (in Chinese only).

[34] State Council Circular, Guo Fa [2014] No. 53. Viewed at: http://www.gov.cn/zhengce/content/2014-11/18/content_9219.htm (in Chinese).

[35] Article 20 of NDRC Notice [2014] No. 12.

the pertinent regulatory bodies) and submit the required documents to the local government authorities.[36]

2.34. The Catalogue of Investment Projects Subject to Government Verification lists specific projects in areas such as: agriculture, energy, transportation, information technology, raw materials, manufacturing of machinery, light manufacturing, high and new technology and construction in urban areas, which would require verification (i.e. approval) both for domestic and foreign investment. In addition, the Catalogue indicates in which instances FIPs are subject to verification and the authorities in charge of undertaking the procedure.[37] Depending on the amount invested or location of the project, verification is carried out by the State Council, the NDRC, or one of its local branches (Table 2.1). The agencies in charge of approval, as well as the requirements to obtain approval, are listed in the Catalogue. Moreover, in the case of projects involving "huge" overcapacity, including steel, electrolytic aluminium, cement, sheet glass and vessels, the approval process is outlined in a specific piece of legislation.[38] Approval is also required for projects designed to expand capacity in any of these sectors.

Table 2.1 Foreign direct investment subject to verification

Investment category	Threshold and ownership requirement	Approving agency
Encouraged	Less than US$1 billion China's equity share of a minimum of 51% or relative control	Government at the provincial level
	US$1 billion or above China's equity share of a minimum of 51% or relative control	State Council or NDRC
	US$2 billion or above China's equity share of a minimum of 51%	NDRC approval State Council for record-filing
Restricted	Less than US$100 million	Government at the provincial level
	US$100 million or above	State Council or NDRC
	US$2 billion or above	NDRC approval State Council for record-filing

Source: Guo Fa [2014] No. 53.

2.35. According to the authorities, FIP applications are in general approved as long as they have no negative impact on national security, the environment or public interest, and they comply with the 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; and the national development plans and industrial policies.[39]

2.36. Foreign-invested enterprises (FIEs) must also register with the State Administration for Industry and Commerce (SAIC) or with the provincial commercial department, and with the State Administration of Foreign Exchange (SAFE). Registration requirements are the same as those that apply to domestic enterprises, but may vary slightly depending on the activity. Corporations are registered in accordance with the Company Law, while partnerships are registered in accordance with the Partnership Law and other measures.[40]

2.37. The Company Law was amended in 2013 to adapt the provisions regarding capital requirements, and replace the paid-up capital registration system with a subscribed capital registration system. For instance, the general minimum capital requirement to establish a wholly foreign-owned enterprise (WFOE) of RMB 30,000, or RMB 100,000 if there is only one shareholder was removed, except for specific industries such as banking and insurance. Capital may be contributed in cash or in kind. The revised Company Law also abolished the requirement for a minimum 30% cash contribution of the registered capital, as well as other requirements in terms

[36] These documents include: the description of the project, the supporting documents to register an enterprise; the letter of investment intent; and the relevant resolution of the board of directors in the case of a project to increase capital or an M&A project (Article 18 of NDRC Notice [2014] No. 12).

[37] The Catalogue also stipulates the verification requirements for outward investment (Article 11 of the Catalogue of Investment Projects Approved by the Government (2014 Version). Guo Fa [2014] No. 53).

[38] Guidance Opinions on Resolving Serious Production Overcapacity Conflicts, Guo Fa [2013] No. 41.

[39] Article 16 of NDRC Notice [2014] No. 12.

[40] The Measures for the Administration of the Establishment of Partnership Enterprises in the Territory of China by Foreign Enterprises or Individuals. Viewed at: http://www.gov.cn/zwgk/2009-12/02/content_1478238.htm (in Chinese only).

of the capital contribution deadlines and capital verification, suggesting a more open and relaxed environment for the set-up and operation of businesses.

2.38. The pilot reform of the foreign investment system, which was initiated in 2013, through the establishment of the China (Shanghai) Pilot Free Trade Zone (CSPFTZ)[41], was expanded in 2015 to three other pilot free trade zones (FTZ) in Guangdong, Fujian and Tianjin.[42] The foreign investment access in these four zones is based on a negative list approach, which applies to the four of them. FIPs not listed in the negative list are exempt from examination and approval. These FIPs are only subject to record-filing.

2.39. In addition to establishing other pilot FTZs, the State Council and MOFCOM released various policies related to investment in the FTZs. These included: the Special Administrative Measures (Negative List) for Foreign Investment Access to Pilot Free Trade Zones (2015 Negative List)[43], the Measures for Record-Filing Administration of Foreign Investment in Pilot Free Trade Zones (for Trial Implementation) (Record-Filing Measures)[44], and the Trial Measures for National Security Review of Foreign Investment in Pilot Free Trade Zones (National Security Measures).[45]

2.40. The 2015 Negative List provides an outline of those sectors in which foreign investment is restricted or prohibited, and replaced the 2014 Negative List, which only applied to the CSPFTZ.[46] The new List applies to all existing FTZs. For all industries not listed in this document, foreign investors will receive treatment similar to domestic companies with regard to the establishment and approval requirements and process. This means that they do not require government approval and, instead, benefit from a simplified filing procedure, in addition to the incorporation procedure required by the SAIC. Under the new Record-Filing Measures, this procedure must be completed within 30 days of the company's incorporation, or within 30 days of the filing of contracts and articles of association of the foreign-funded enterprise.

2.41. The 2015 Negative List enumerates 122 prohibited or restricted areas, reduced from 139 in the 2014 Negative List. The changes made to the 2015 List mirror those incorporated in the 2015 Foreign Investment Catalogue, including reducing the number of sectors that are restricted or prohibited to foreign investors and reducing the number of industries where foreign investors can only participate through a joint venture with a Chinese company or need a minimum amount of Chinese equity participation. Certain items have also been removed from the prohibited category of the List, for example the manufacturing of weapons and ammunition. However, this does not mean that foreign investors may now manufacture weapons within the FTZs. The 2015 Negative List only serves to identify instances in which foreign investors are treated differently than domestic investors. Weapons and ammunition are not allowed to be produced by regular Chinese entities either, hence their removal from the List. Thus, the Negative List needs to be read in conjunction with other laws and regulations.

[41] State Council Circular on Printing and Distributing the Overall Plan for China (Shanghai) Pilot Free Trade Zone, Guo Fa [2013] No. 38. Viewed at: http://www.gov.cn/zwgk/2013-09/27/content_2496147.htm (in Chinese only).

[42] Notice of the State Council on Printing and Distributing the "Overall Plan for the China (Guangdong) Pilot Free Trade Zone", Guo Fa [2015] No. 18. Viewed at: http://www.gov.cn/zhengce/content/2015-04/20/content_9623.htm (in Chinese only); Notice of the State Council on Printing and Distributing the "Overall Plan for the China (Fujian) Pilot Free Trade Zone", Guo Fa [2015] No. 20. Viewed at: http://www.gov.cn/zhengce/content/2015-04/20/content_9633.htm (in Chinese only); Notice of the State Council on Printing and Distributing the "Overall Plan for the China (Tianjin) Pilot Free Trade Zone", Guo Fa [2015] No. 19. Viewed at: http://www.gov.cn/zhengce/content/2015-04/20/content_9625.htm (in Chinese only).

[43] Notice of the General Office of the State Council on Printing and Distributing the Special Management Measures for the Market Entry of Foreign Investment in Pilot Free Trade Zones (Negative List), 8 April 2015, Guo Ban Fa [2013] No. 23. Viewed at: http://www.gov.cn/zhengce/content/2015-04/20/content_9627.htm (in Chinese only).

[44] Measures for Record-Filing Administration of Foreign Investment in Pilot Free Trade Zones (for Trial Implementation), MOFCOM Announcement [2015] No. 12. Viewed at: http://wzs.mofcom.gov.cn/article/n/201504/20150400946303.shtml (in Chinese only).

[45] Notice of the General Office of the State Council on Printing and Distributing the Trial Measures for the National Security Review of Foreign Investment in Pilot Free Trade Zones, Guo Ban Fa [2015] No. 24. Viewed at: http://www.gov.cn/zhengce/content/2015-04/20/content_9629.htm (in Chinese only).

[46] Special Management Measures for the Market Entry of Foreign Investment in the China (Shanghai) Pilot Free Trade Zone (Negative List) (2014 Revision), Shanghai Municipal People's Government Announcement [2014] No. 1. Viewed at: http://www.china-shftz.gov.cn/PublicInformation.aspx?GID=8f7d8298-3462-4c6f-8cc8-8c42a315143c&CID=953a259a-1544-4d72-be6a-264677089690&MenuType=1.

2.42. In 2015, the State Council also released the Circular on Distributing the Trial Measures on National Security Review of Foreign Investment in the Pilot Free Trade Zones to ensure control over potential national security risks as restrictions are relaxed for foreign investors. The Circular clarifies standards for conducting security reviews of foreign investment that may affect national security or involve sensitive investors as well as acquisition targets, and industries and technology. The measures are broader than the existing regime, which only applies to certain types of foreign M&A transactions. Under the FTZ pilot rules, investments by foreign companies will be strictly reviewed if they involve a controlling stake of businesses related to: the military fields, key agricultural products, energy, infrastructure, transportation, culture, information technology and equipment manufacturing that concern national security. The review applies not only to foreign M&As but to all other types of foreign investment, including offshore transactions, reinvestment by FIEs and arrangements using share nominees. The review will evaluate the influence of foreign investment on national security, economic stability, social order, morality, Internet safety and the development of key technology concerning State security. However, there are no details in the Circular on how to carry out the evaluation or on the definition of any of these factors. A joint committee with representatives from the NDRC, MOFCOM and other agencies will conduct the reviews.

2.5.3 Incentives for foreign investment

2.43. China still offers various tax incentives to promote sectors deemed beneficial to the development of its economy. As a result, most capital goods imported to be used in projects in sectors listed in the "encouraged" category of the Investment Catalogue may benefit from customs duty exemptions.[47] Goods listed in the Catalogue of Products Imported for Foreign Investment Projects and Not Eligible for Tax Exemption (last revised in 2008), and in the Catalogue of Imported Major Technical Equipment and Products Not Eligible for Tax Exemption (last revised in 2014), are excluded from this treatment.[48]

2.44. Foreign-invested projects (FIPs) 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.[49] These projects benefit from customs duty exemptions on the importation of capital goods and continue to enjoy a reduced enterprise income tax (EIT) rate of 15%; this benefit will be in place until 2020.[50] The Central and Western Regions Catalogue was last revised in 2013 to enlarge its sectoral and geographical scope: it now has 500 sectors, 173 more than the previous Catalogue, and its geographical coverage was extended.[51] At present the Hainan province is also covered by the Catalogue. Newly included sectors were related to emerging industries and services (solar power generation and its equipment, spare parts manufacturing, cloud computing, the "Internet of Things", and mobile Internet).

2.45. China continues to encourage FDI in high-tech enterprises and R&D; "qualified" R&D centres can apply for import duty and import VAT exemption for "qualified" imported R&D equipment.[52]

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[47] The VAT exemption was removed in 2009 (GACC Announcement [2008] No. 103. Viewed at: http://www.customs.gov.cn/publish/portal0/tab1/info154122.htm).

[48] General Administration of Customs Announcement [2015] No. 29. Viewed at: http://www.customs.gov.cn/publish/portal0/tab65603/info761268.htm (in Chinese only); Catalogue of Products Imported for FIPs and Not Eligible for Tax Exemption, GACC Announcement [2008] No. 65. Viewed at: http://www.customs.gov.cn/publish/portal0/tab399/info125825.htm (in Chinese only); and the Catalogue of Imported Major Technical Equipment and Products Not Eligible for Tax Exemption, Cai Guan Shui [2014] No. 2. Viewed at: http://www.gov.cn/gzdt/2014-02/28/content_2625354.htm (in Chinese only).

[49] Catalogue of Priority Industries for Foreign Investment in Central-Western Regions of China, NDRC MOFCOM Decree [2013] No. 1. Viewed at: http://www.sdpc.gov.cn/zcfb/zcfbl/201305/t20130516_541505.html .

[50] WTO document G/SCM/N/284/CHN, 30 October 2015.

[51] A full English version of the revised Catalogue was not available at the time of writing this report. The Chinese version is available at: http://www.mofcom.gov.cn/article/b/g/201309/20130900322859.shtml. An abbreviated English version of the revised Catalogue in English is available at: http://www.china-briefing.com/news/2013/05/16/china-updates-catalogue-of-priority-industries-for-foreign-investment-in-central-and-western-regions.html.

[52] SAT Announcement [2011] No. 73 on Management Measures on VAT refund for domestic equipment purchased by R&D centres. Viewed at: http://www.chinatax.gov.cn/n810341/n810765/n812156/n812454/c1185476/content.html ; and Circular

2.46. Incentives are also granted to companies importing technologies or products included in the Catalogue of Encouraged Technology and Product Imports, which was last updated in 2015 replacing the 2011 Catalogue.[53] The Catalogue, which MOFCOM updates from time to time, covers the importation of various advanced technologies, essential equipment and components, critical resource products, as well as raw materials. It reflects China's need to obtain core technologies from overseas and to purchase key equipment and components that it currently does not manufacture. The 2009 Catalogue stipulated that companies that import technologies or products included in the Catalogue will benefit from a preferential interest rate.[54] However, it does not provide any more details regarding the interest rate or the amount of the reduction, which apparently are not determined at the Central Government level; this support is financed through a special fund set up by the Government to promote economic development and trade.[55] According to the authorities none of these preferential policies are currently in place.

2.47. Preferential tax treatment continues to be provided under the EIT Law for both foreign- and domestic-invested enterprises under certain circumstances (Table 2.2). This Law allows for tax reduction, 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 EIT shared by the local authorities.

Table 2.2 Incentives in the form of preferential tax treatment under the Enterprise Income Tax Law

Type of enterprise	Conditions for 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 fall 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 the number of R&D personnel	Reduced rate of 15%
Venture capital enterprises	Venture capital investments are 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, and 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, products or techniques	Deduction 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, or production safety	Partial deduction of the invested amount from income tax

Source: EIT Law of the People's Republic of China.

Caishui [2011] No. 88. Viewed at: http://szs.mof.gov.cn/zhengwuxinxi/zhengcefabu/201110/t20111019_600479.html.

[53] Catalogue of Encouraged Technology and Product Imports (2015). Viewed at: http://www.mofcom.gov.cn/article/difang/201508/20150801074747.shtml.

[54] The Catalogue of Encouraged Technology and Product Imports (2009). Viewed at: http://www.sdpc.gov.cn/fzgggz/gyfz/zcfg/200908/t20090831_299031.html.

[55] Administrative Measures for Special Fund of Foreign Economy and Trade Development, Cai Qi [2014] No. 36. Viewed at: http://www.mof.gov.cn/zhengwuxinxi/caizhengwengao/wg2014/201408wg/201503/t20150327_1208373.html (in Chinese only).

2.48. In order to attract investment, especially foreign investment, and promote economic development, China has historically implemented preferential tax regimes in specific regions. However, according to the information provided by the authorities, several of these regimes have been eliminated. The regimes that applied in: some Special Economic Zones; Coastal Open Cities; Economic and Technological Development Zones; the Binhai New Area of Tianjin; the Pudong New District of Shanghai; and the Three Gorges of the Yangtze River Economic Zone have been removed. Tax preferences remain in place for high-tech enterprises that were established as of 1 January 2008 in a special economic zone (i.e. Shenzhen, Zhuhai, Shantou, Xiamen, or Hainan) or the Pudong New Area of Shanghai. Income earned in any of those zones is exempt from EIT for the first two years following the initial year in which income derived from production or operations is earned, and a preferential rate of 50% of the statutory tax rate of 25% is applied between the third and fifth years. Encouraged industries established in China's Western Development Regions continue to enjoy a preferential enterprise income tax (EIT) of 15% instead of the statutory EIT of 25%.

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 regulated by several pieces of legislation (Table 3.1). In addition, the General Administration of Customs of the People's Republic of China (GACC), the national authority responsible for customs administration in China, issues administrative customs ordinances and announcements to introduce and enforce changes in customs procedures.[1] Between January 2014 and September 2015, the GACC issued 142 GACC announcements and 13 GACC decrees. The announcements focused, *inter alia*, on: paperless procedures, the harmonization of customs procedures throughout China, the imposition of anti-dumping duties, and tariff classification.[2] The decrees were related to: improving the transparency of customs operations through the disclosure of information[3]; facilitating the return of imported goods[4]; standardizing the registration of customs declaration entities[5]; implementing free trade agreements[6]; and rating enterprises according to their credit history.[7]

Table 3.1 Legislation related to customs procedures

Legislation	Date of issuance / amendment
Customs Law of the People's Republic of China	Order No. 50 issued in 1987, and amended in 2000 and 2013 (last amended, 28 December 2013. Viewed at: http://www.npc.gov.cn/npc/xinwen/2013-12/30/content_1821988.htm)
Regulations of the People's Republic of China on Import and Export Duties	State Council Decree No. 392, 29 October 2003. Viewed at: http://english.mofcom.gov.cn/aarticle/policyrelease/internationalpolicy/200705/20070504715851.html (in English)
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 2004, and amended by No. 218 of 2014 (last amended, 13 March 2014. Viewed at: http://www.customs.gov.cn/publish/portal0/tab399/info265127.htm)
Customs Rules on Administration of the Levying of Duties on Imports and Exports	GACC Decree No. 124 of 2005 amended by GACC Decree No. 218 of 2014 (last amended, 13 March 2014. Viewed at: http://www.customs.gov.cn/publish/portal0/tab399/info4487.htm)

Note: Legislation may be viewed in Chinese only.

Source: WTO Secretariat.

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. 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.[8] Import (and export) declarations must be made in paper and electronic format or through the paperless procedure, and can be made either by a natural person or by a customs declaration enterprise.[9] In 2014, the registration requirements for customs declaration enterprises

[1] For a full list of the laws and regulations, see General Administration of Customs of the People's Republic of China (GACC) online information: http://www.customs.gov.cn/Default.aspx?tabid=399 (in Chinese only).

[2] For a full list of announcements and decrees, see GACC online information: http://www.customs.gov.cn/tabid/49659/Default.aspx. (in Chinese only).

[3] GACC Decree of No. 215, 26 February 2014. Viewed at: http://www.customs.gov.cn/publish/portal0/tab49660/info697390.htm (in Chinese only).

[4] GACC Decree of No. 217, 12 March 2014. Viewed at http://www.customs.gov.cn/publish/portal0/tab49660/info700175.htm (in Chinese only).

[5] GACC Decree of No. 221, 13 March 2014. Viewed at: http://www.customs.gov.cn/publish/portal0/tab49660/info700178.htm (in Chinese only).

[6] China-Iceland FTA (GACC No. 222, 30 June 2014). Viewed at: http://www.customs.gov.cn/publish/portal0/tab49660/info711364.htm; China–Switzerland FTA (GACC No. 223 of 30 June 2014). Viewed at: http://www.customs.gov.cn/publish/portal0/tab49660/info711366.htm; and China-Chile FTA (GACC No. 224, 30 September 2014). Viewed at: http://www.customs.gov.cn/publish/portal0/tab49660/info720320.htm (in Chinese only).

[7] GACC Decree No. 225, 8 of October 2014. Viewed at: http://www.customs.gov.cn/publish/portal0/tab49660/info720845.htm (in Chinese only).

[8] Rules for the Registration of Foreign Trade Operators. Viewed at: http://www.mofcom.gov.cn/article/b/g/201303/20130300041141.shtml (in Chinese only).

[9] GACC Announcement No. 25, 1 April 2014. Viewed at: http://www.customs.gov.cn/publish/portal0/tab49564/info702075.htm.

were amended.[10] According to the Chinese authorities, as a result the new provisions simplify the licensing requirements and the establishment procedures for declaration enterprises. For instance, previously these enterprises were required to obtain an administrative licence to establish branches across the 42 customs areas that exist in China; this requirement was removed and was replaced by a filing requirement.

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 by the Catalogue of Import and Export Commodities Subject to Compulsory Inspection.[11] The Catalogue is amended every year to add or remove commodities as required to protect human, animal or plant health and the environment, and to prevent fraud and safeguard national security.[12]

3.4. 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 started implementing a pilot programme on the Reform of Classified Customs Clearance.[13] As a result, the Classified Enterprise Administration Reform, whose implementation started in 2010, was extended across China in 2012. Under this reform, enterprises were classified in five categories: AA, A, B, C, and D, based, *inter alia*, on credit rating, and compliance with the law. This classification was replaced in 2014; enterprises have since been classified, mainly based on their credit rating, as: authorized enterprises, enterprises of general integrity, and "dishonest" enterprises.[14] Customs clearance continues to depend upon the enterprise's classification and on four other aspects: internal control, financial status, compliance with rules, and trade security. Authorized enterprises, known as Authorized Economic Operators (formerly classified AA and A), benefit from more simplified customs clearance procedures. Enterprises of general integrity, formerly category B, are subject to intermediate customs clearance procedures, and "dishonest" enterprises are subject to stricter controls.[15] Enterprises may change category according to their credit rating. Customs recertifies authorized enterprises every three years, and recertifies enterprises of general integrity on an *ad hoc* basis. "Dishonest" enterprises may be reclassified as an enterprise of general integrity after one year of "good behaviour"; and they may apply for reclassification, as an authorized enterprise, one year after becoming an enterprise of general integrity.

3.5. In 2012, with the aim of further facilitating trade, China started implementing the "Reform of Paperless Customs Clearance", which covers imports and exports via air, sea and land, as a pilot programme. In 2013, the programme was implemented across China's 42 customs offices and by 2014 it applied across the whole country.[16] The Paperless Reform was not applied to goods subject to licensing or other restrictions. However, as of 2015, a pilot paperless customs clearance scheme for products subject to automatic import licensing, which had been implemented in the Shanghai pilot Free Trade Zone[17], was expanded to Tianjin, Fujian, Guangdong, Ningbo and

[10] Administrative Provisions on Registration of Customs Declaration Entities (GACC Decree [2014] No. 221). Viewed at: http://www.customs.gov.cn/publish/portal0/tab399/info700322.htm (in Chinese only).
[11] GACC and AQSIQ Announcement [2014] No. 146. Viewed at: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjgg/2014/201501/t20150106_429636.htm (in Chinese only).
[12] Implementing Regulations for the Law on Inspection of Import and Export Commodities, Order of the State Council, No. 447. Viewed at: http://www.asianlii.org/cn/legis/cen/laws/irftlotprocoioiaec1072.
[13] GACC Announcement [2009] No. 33. Viewed at: http://www.customs.gov.cn/publish/portal0/tab1/info174780.htm (in Chinese only); and GACC Announcement [2010] No. 56. Viewed at: http://www.e-to-china.com/tariff_changes/china_customs_practice/2010/0903/85925.html.
[14] Interim Measures for Enterprise Credit Management (GACC Decree [2015] No. 225). Viewed at: http://www.customs.gov.cn/publish/portal0/tab49660/info720845.htm (in Chinese only).
[15] GACC Announcement [2010] No. 56 on Further Promotion of Classified Customs Clearance Expanding the Scope of Classified Customs Clearance Reform. Viewed at: http://www.customs.gov.cn/publish/portal0/tab399/info237228.htm (in Chinese only).
[16] Announcement on Further Promoting Paperless Customs Clearance, GACC Decree [2014] No. 25. Viewed at: http://www.customs.gov.cn/publish/portal0/tab49564/info702038.htm (in Chinese only).
[17] Announcement on Paperless Customs Declaration in Shanghai Pilot Free Trade Zone. Viewed at http://www.customs.gov.cn/publish/portal27/tab61724/info762104.htm (in Chinese only).

Suzhou.[18] The pilot scheme covers all goods subject to automatic import licensing, excluding those for which a licence can be used for multiple shipments.

3.6. In addition to the ordinary import regime, China has six additional regimes including: the importation of goods at no cost to replace damaged products; the importation of leased goods; the temporary entry of goods; the entry of goods for maintenance and repair; the importation of returned goods; and imports into special customs supervision areas.[19] These regimes have not undergone substantial changes since 2014. 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 to different inspection and quarantine requirements, which are formulated by the AQSIQ with the GACC.[20]

3.7. China has continued to make efforts to harmonize customs procedures across its 42 customs areas. Nevertheless, "special customs supervision areas", which are governed by different regulations, continue to exist despite the guiding opinions issued by the State Council in 2012, which called for the unification of the rules applied in those areas.[21] China also applies different customs procedures to specific areas, in some instances on a trial basis, to assess if they work.[22] More recently in 2014, China started to promote the integration of customs areas to harmonize clearance procedures. According to the authorities, this integration has taken place amongst the 42 customs areas to create five clusters including: in Beijing/Tianjin/Hebei[23], the Pearl River provinces[24], and the Chang Jiang River Economic Belt.[25]

3.1.2 Customs valuation

3.8. Although the legislation regulating customs valuation, which has been in place since 2006, was amended in 2013, valuation procedures have not undergone major changes.[26] Customs value is determined on the basis of the transaction value and, when it cannot be used, the other valuations methods are used in sequential order, as stipulated in the WTO's Customs Valuation Agreement (i.e. transaction value of identical goods; transaction value of similar goods; deductive value; computed value; and reasonable means). The valuation of freight and insurance for goods transported by road and railways was clarified in the 2013 amendment, which also repealed the provisions concerning the dutiable price of special imported goods (e.g. goods imported to be repaired and then exported or goods imported temporarily).

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[18] Announcement on Further Expanding the Pilot Paperless Customs Clearance under Automatic Import Licence, GACC Decree [2015] No. 35. Viewed at http://www.customs.gov.cn/publish/portal0/tab49661/info766990.htm (in Chinese only).

[19] GACC Decree [2005] No. 124. Viewed at: http://www.customs.gov.cn/publish/portal0/tab399/info4487.htm (in Chinese only).

[20] Art 44 of the Implementing Regulations for the Law on Inspection of Import and Export Commodities, Order of the State Council, No. 447. Viewed at: http://www.asianlii.org/cn/legis/cen/laws/irftlotprocoioiaec1072.

[21] Guo Fa [2012] No. 58, Guiding Opinions of the State Council on Promoting the Scientific Development in Special Customs Supervision Areas. Viewed at: http://www.gov.cn/zwgk/2012-11/02/content_2256060.htm.

[22] GACC Decree No. 209, 27 June 2013, Customs Supervision Measures for Hengqin New Area. Viewed at: http://www.customs.gov.cn/publish/portal0/tab49660/info623256.htm; and GACC Decree No. 208, 27 June 2013, China Customs Regulatory Approach to Pingtan Comprehensive Experimental Zone (Trial). Viewed at: http://www.customs.gov.cn/publish/portal0/tab49660/info623257.htm (in Chinese only).

[23] GACC Announcement [2014] No. 45, Reform of customs clearance integration in Beijing, Tinajin and Hebei. Viewed at http://www.customs.gov.cn/publish/portal0/tab49661/info710895.htm; and GACC Announcement [2014] No. 68, Reform of Customs Integration in Shijiazhuang. Viewed at: http://www.customs.gov.cn/publish/portal0/tab49661/info718634.htm (in Chinese only).

[24] GACC Announcement [2014] No. 66, Reform of customs clearance integration in Guangdong Province. Viewed at: http://www.customs.gov.cn/publish/portal0/tab49661/info718158.htm (in Chinese only).

[25] GACC Announcement [2014] No. 84, Reform of customs clearance integration in Changjiang River Economic Belt. Viewed at: http://www.customs.gov.cn/publish/portal0/tab49661/info725557.htm (in Chinese only).

[26] GACC Decree [2013] No. 213, Amendment to the Customs Measures for Assessing and Determining Duty-Paid Value of Imported and Exported Goods (GACC Decree [2006] No. 148). Viewed at: http://www.customs.gov.cn/publish/portal0/tab49660/info688746.htm (in Chinese only).

3.1.3 Rules of origin

3.9. China applies preferential and non-preferential rules of origin. The legislation regulating non-preferential rules of origin has not undergone major changes since 2004, as notified in 2015 by China.[27] As a result, non-preferential rules of origin remained unchanged and continue to be used to: apply the MFN tariff rate; ensure the origin of goods subject to anti-dumping, countervailing and safeguard 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.[28]

3.10. Preferential rules of origin apply in accordance with the specifications of the various preferential agreements signed by China. They are also used to grant preferential treatment to imports from LDCs.[29] In general, the criteria used to determine origin include: change in tariff classification, whether the good is wholly obtained in one party; regional value content, processing operation or other requirements. In most FTAs, bilateral cumulation is allowed.

3.1.4 Tariffs

3.1.4.1 Applied tariffs and tariff structure

3.11. China's tariff is comprised of 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 (i.e. usually one year).

3.12. Agreement rates apply to imports from countries and customs territories with which China has preferential trade agreements (Section 2). Special preference duty rates are unilateral preferences applied to imports originating in least developed countries with which China has a trade agreement.[30] General rates apply to: products whose origin cannot be determined; products from countries that do not have a reciprocal trade agreement with China; non-WTO Members; and some territories of EU member States. According to the authorities, if a country appears in several lists and may be subject to various duty rates, the most favourable rate applies, taking into account the rules of origin. Interim duties are fixed annually by the Customs Tariff Commission, and usually apply from 1 January to 31 December of each year. Interim duties are applied on an MFN basis and replace the MFN duties 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.

3.13. China's applied MFN tariff in 2015 consists of 8,285 lines at the eight-digit level in the Harmonized System 2012; some 99.5% (8,243 lines) of the lines are *ad valorem* and 42 tariff lines are subject to non-*ad valorem* rates (34 lines have specific rates, three have alternate rates and five lines carry either an *ad valorem* rate, if the price is below or equal to a certain amount, or

[27] Decree of the State Council [2005] No. 416, Regulations on the Origin of Imported - Exported Goods. Viewed at: http://www.gov.cn/zwgk/2005-05/23/content_240.htm (in Chinese only); and WTO document G/RO/N/132 of 7 September 2015.

[28] According to the Regulations, origin is granted if goods are wholly obtained in one country; and, if goods are produced in more than two countries, the country where the final substantive transformation is made determines the origin. Origin is also granted if there is substantive transformation, as determined by a change of tariff classification, or, if this is not the case, value added (of not less than 30% of the total value of the product) can be used as a supplementary criterion.

[29] For complete list of China's rules of origin under the preferential agreements signed prior to the period under review, see: WTO documents WT/TPR/S/264/Rev.1, 20 July 2012; and WT/TPR/S/300/Rev.1, 7 October 2014.

[30] Afghanistan; Angola; Bangladesh; Benin; Burundi; Cambodia; 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; Myanmar; Nepal; Niger; Rwanda; Samoa; Sierra Leone; Senegal; Somalia; South Sudan; Sudan; Tanzania; Togo; Uganda; Vanuatu; Yemen and Zambia (Ministry of Finance P.R.C. (2015), Customs Tariffs on Imports and Exports of the People's Republic of China, 2015, Beijing, China).

a compound rate, if the price is higher).[31] The tariff lines subject to specific rates have not changed since the previous review.[32]

3.14. The average applied MFN rate in 2015 was 9.5%, almost unchanged since 2011 and 2013 when the average stood at 9.5% and 9.4% respectively. The tariff was higher for agricultural products (WTO definition), at 14.8%, showing no change for 2013 and a slight decline from the average calculated for 2011 (Table 3.2). The average applied tariff on non-agricultural products remained unchanged since 2011, at 8.6%. The percentage of tariffs that exceeded 15% (international tariff peaks) also remained unchanged since 2013 at 14.4%, down from 14.8% in 2011.

Table 3.2 China's tariff structure, 2011, 2013 and 2015

	MFN applied			Final bound[a]
	2011	2013	2015	
Simple average rate[b]	9.5	9.4	9.5	9.8
WTO agricultural products	15.1	14.8	14.8	15.1
WTO non-agricultural products	8.6	8.6	8.6	9.0
Duty-free tariff lines (% of all tariff lines)	9.4	9.8	9.7	7.7
Simple average rate of dutiable lines only	10.5	10.5	10.5	10.6
Tariff quotas (% of all tariff lines)	0.6	0.6	0.6	0.6
Non-*ad valorem* tariffs (% of all tariff lines)	0.7	0.5	0.5	0.0
Domestic tariff "peaks" (% of all tariff lines)[c]	2.2	2.1	2.2	2.3
International tariff "peaks" (% of all tariff lines)[d]	14.8	14.4	14.4	15.3
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)[e]	2.7	2.9	2.9	2.6
Bound tariff lines (% of all tariff lines)	100.0	100.0	100.0	100.0
Number of lines	7,977	8,238	8,285	8,285
Ad valorem rates	7,177	7,385	7,437	7,649
Duty-free rates	748	810	806	636
Specific rates	44	35	34	0
Alternate rates	3	3	3	0
Other[f]	5	5	5	0

a Final bound rates are based on the 2015 tariff schedule in HS12 nomenclature.
b The simple average not including interim rates is 9.8% for all three years.
c Domestic tariff peaks are defined as those exceeding three times the overall average applied rate.
d International tariff peaks are defined as those exceeding 15%.
e Nuisance rates are those greater than zero, but less than or equal to 2%.
f 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: 2011 tariff schedule is based on HS07 nomenclature; 2013 and 2015 tariff schedules are based on HS12 nomenclature. Calculations are based on national tariff line level (8-digit); excluding in-quota rates and including AVEs for non-*ad valorem* rates provided by the authorities, as available. Interim duty rates are used for the calculations when fully applied at the 8-digit level.

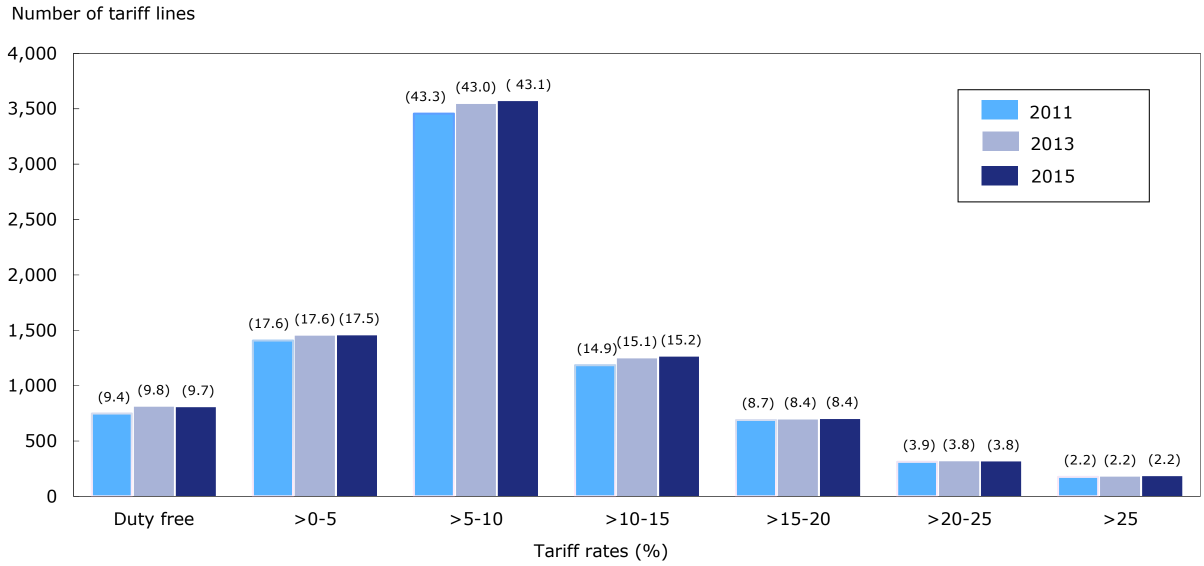
Source: WTO Secretariat calculations, based on data provided by the Chinese authorities.

3.15. The distribution of China's applied MFN tariff has not changed substantially since the last Review. In 2015, China's applied MFN tariff contained 54 different *ad valorem* tariff rates, ranging from 0% to 65%, in addition to the non-*ad valorem* rates (Table A3.1). Some 40% of all tariffs ranged from 5% to 10%, also unchanged since 2011 and 2013 (Chart 3.1). The percentages of duty-free lines and of lines with rates higher than 30% have not changed either.

[31] 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).

[32] These are in Chapters 37 (photographic or cinematographic goods, 27 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).

Chart 3.1 Distribution of MFN applied tariff rates, 2011, 2013 and 2015



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

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

3.1.4.2 Bound tariffs

3.16. Since China's accession to 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 A3.1). However, while the tariffs were bound at *ad valorem* rates, applied tariffs on 42 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

3.17. China offers preferential treatment under its different bilateral and regional trade agreements. The ASEAN countries, Chile and New Zealand continue to face the lowest tariff rates, together with Costa Rica, whose imports enjoy an average preferential tariff rate of 0.7% (2.8% in 2013). The average preferential for rate for Peru also declined to 2.5% in 2015 from 3.5% in 2003. The concessions offered to Hong Kong, China and Macao, China; and to Chinese Taipei remained unchanged since 2013 (Table 3.3). The average preferential tariff applied to 37 LDCs, which stood at 5% in 2013, has declined substantially. In 2015, China granted duty-free treatment on 95.1% of all tariff lines to 14 LDCs and on 97% of all lines to 24 other LDCs. As of December 2015, duty-free treatment on 97% of all lines has been extended to other LDCs, at present this preferential treatment applies to 33 LDCs.

Table 3.3 Summary analysis of the Chinese preferential tariff, 2015

	Total		WTO agriculture		WTO non-agriculture	
	Average (%)	Duty-free rates[a] (%)	Average (%)	Duty-free rates[a] (%)	Average (%)	Duty-free rates[a] (%)
MFN	**9.5**	**9.7**	**14.8**	**8.1**	**8.6**	**10.0**
Agreement tariff rates						
APTA[b]	8.8	10.0	13.8	9.0	8.0	10.2
ASEAN[c]	0.7	94.8	1.7	93.6	0.6	95.0
Hong Kong, China CEPA[d]	7.0	31.4	12.4	22.3	6.2	32.9
Macao, China CEPA[d]	7.4	25.5	10.4	33.5	6.9	24.2
Chinese Taipei ECFA[e]	8.8	17.2	14.6	9.4	7.8	18.4
Pakistan FTA	5.9	35.6	11.5	22.7	5.0	37.7
Chile FTA	0.5	97.1	2.0	94.8	0.2	97.5
New Zealand FTA	0.4	96.8	1.8	91.9	0.2	97.6
Singapore FTA	4.6	43.3	8.7	41.8	3.9	43.6
Peru FTA	2.5	72.8	6.1	46.2	1.9	77.1
Costa Rica FTA	0.7	93.7	3.2	84.9	0.4	95.2

	Total		WTO agriculture		WTO non-agriculture	
	Average (%)	Duty-free rates[a] (%)	Average (%)	Duty-free rates[a] (%)	Average (%)	Duty-free rates[a] (%)
Iceland FTA	0.7	95.5	2.9	91.1	0.3	96.3
Switzerland FTA	6.8	23.6	11.8	15.5	6.0	25.0
Least developed preferential rates						
Special preferential tariff agreement for:						
Bangladesh and Laos under APTA	9.2	11.0	14.7	8.1	8.3	11.4
Cambodia	8.7	15.7	12.0	29.2	8.2	13.5
Laos	9.0	13.6	12.8	22.9	8.4	12.1
Myanmar	9.0	13.4	13.9	13.9	8.2	13.3
2 LDC countries (Bangladesh + Mauritania)	5.0	61.7	9.1	56.7	4.3	62.5
14 LDC countries	0.9	95.1	2.9	92.1	0.6	95.6
24 LDC countries	0.6	97.0	2.4	93.6	0.3	97.6
Memorandum item:						
Bangladesh[f]	4.7	61.8	8.6	56.9	4.1	62.6
Cambodia[g]	0.7	94.8	1.7	93.6	0.6	95.0
Laos[h]	0.7	94.8	1.7	93.6	0.6	95.0
Myanmar[i]	0.7	94.8	1.7	93.6	0.6	95.0
Singapore[j]	0.7	94.8	1.7	93.6	0.6	95.0

a Duty-free lines as a percentage of total tariff lines.
b Preferential rates under APTA are applicable to the Republic of Korea, Sri Lanka, Bangladesh, India, and Laos.
c Preferential rates under ASEAN are applicable to Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Viet Nam.
d Closer Economic Partnership Agreement.
e Cross-straits Economic Co-operation Framework Agreement.
f Based on lowest rates taken from 2 LDC countries, Bangladesh and Laos under APTA, and APTA preferential.
g Based on lowest rates taken among ASEAN, and special preferential for Cambodia, and 14 LDCs.
h Based on lowest rates taken among ASEAN, special preferential for Laos, Bangladesh and Laos under APTA, and APTA preferential.
i Based on lowest rates taken among ASEAN, and special preferential for Myanmar, and 14 LDCs.
j Based on lowest rates taken among ASEAN and Singapore FTA.

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, as available. Interim duty rates are used for the calculations when fully applied at the 8-digit level. The preferential tariffs negotiated under the agreements with Australia and the Republic of Korea were not included as the information is not available.

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

3.1.4.4 Tariff-rate quotas (TRQs)

3.18. Since the previous review there do not seem to have been any substantial changes regarding the products subject to tariff-rate quotas (TRQs), the tariff rates applied or the system to allocate them. In 2015, as at the time of the previous Review, TRQs applied 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). The in-quota and out-of-quota rates also remained unchanged. 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 rate that applies to a "certain portion" of imports of cotton (Section 4). According to the authorities, the tariff quota allocation process has not changed since 2013. The most recent information available for tariff quota utilization dates from 2014.[33]

3.1.4.5 Tariff concessions

3.19. Import duty exemptions apply in certain cases and under certain incentives programmes (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 specific enterprises or for a specific use.[34] For instance, imported commodities are exempt from import duties and other taxes when entering special customs supervision areas and when imports are devoted to specific purposes.[35] Under processing trade,

[33] WTO document G/AG/N/CHN/30, 2 February 2016.
[34] Customs Law, Article 57.
[35] For more details on the different regimes refer to: WTO (2014), *Trade Policy Review – China*, Geneva.

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.[36] Regarding border trade, goods imported for daily use and valued at less than RMB 8,000 per person per day are exempt from tariffs as well.[37]

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.
Goods damaged prior to customs clearance.
Fuels, stores, beverages and provisions to be used *en route* by vessels that are in transit in China.

Source: Customs Law and Regulations on Import and Export Tariffs.

3.1.5 Other charges affecting imports

3.20. Imports are subject to Value Added Tax (VAT), which is collected by Customs on behalf of the State Administration of Taxation (SAT). 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.[38] VAT has two rates: 13% and 17%. The list of products subject to the 13% rate and those that are exempt from the VAT has not changed since the previous Review.[39] Domestically-produced agricultural products sold directly by the producer continue to be exempted from VAT, while imported goods are not.[40]

3.21. A number of imported and domestically-produced goods are also subject to the consumption (excise) tax. The consumption tax is levied on: products that are harmful to human health, social order and the environment; luxury goods; high-energy consumption and high-end products; and non-renewable and non-replaceable petroleum products. Tax rates continue to vary considerably depending upon the product; they can be *ad valorem*, specific or compound. Tax rates and the list of products subject to this tax may be modified as required (Table 3.4).

Table 3.4 Excise (or consumption) tax, 2013-15

Product	2013	2014	2015
Tobacco			
Cigars	36%	36%	36%
Cigarettes:			
Production procedure			
Price higher than RMB 70 per carton	56% plus RMB 0.003 per cigarette	56% plus RMB 0.003 per cigarette	56% plus RMB 0.003 per cigarette
Price lower than RMB 70 per carton	36% plus RMB 0.003 per cigarette	36% plus RMB 0.003 per cigarette	36% plus RMB 0.003 per cigarette
Wholesaling procedure	5%	5%	5%; 11% plus RMB 0.005/cigarette as of 10.05.2015[a]
Cut tobacco	30%	30%	30%
Alcoholic drinks and liquor			
White spirit distilled from grain, potatoes or grapes	20% plus RMB 0.5 per 500 g (or per 500 ml)	20% plus RMB 0.5 per 500g (or per 500 ml)	20% plus RMB 0.5 per 500g (or per 500 ml)
Yellow rice wine	RMB 240 per tonne	RMB 240 per tonne	RMB 240 per tonne
Beer made from malt of a value over or equal to US$370 per tonne	RMB 250 per tonne	RMB 250 per tonne	RMB 250 per tonne

[36] Regulations on Import and Export Tariffs, Article 41.

[37] Article 5 of Management Measures on Border Trade, GACC Decree [1996] No. 56, amended by GACC Decree [2010] No. 198. Viewed at: http://www.customs.gov.cn/publish/portal0/tab2746/info4198.htm.

[38] Rules for the Implementation of the Interim Regulation on Consumption Tax, Decree No. 51 of the MOF and the STA. Viewed at: http://www.gov.cn/gongbao/content/2009/content_1322133.htm (in Chinese only).

[39] Products subject to a 13% VAT rate include: grains; edible vegetable oil; 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 (Interim Regulations on Value-Added Tax, State Council Decree No. 538. Viewed at: http://www.chinatax.gov.cn/n810341/n810765/n812171/n812680/c1190937/content.htm).

[40] Interpretation of VAT by the SAT, 28 October 2011. Viewed at: http://www.gov.cn/gongbao/content/2012/content_2121706.htm (in Chinese only).

Product	2013	2014	2015
Beer made from malt of a value of less than US$370 per tonne	RMB 220 per tonne	RMB 220 per tonne	RMB 220 per tonne
Other fermented alcoholic beverages	10%	10%	10%
Ethyl alcohol	5%	5% (removed 1.12.2014)	n.a.
Some cosmetics (apart from skincare products)	30%	30%	30%
Precious jewellery, pearls, jade, and precious stone			
Gold, silver platinum jewellery, and diamonds	5%	5%	5%
Pearls, jade, and precious stones	10%	10%	10%
Firecrackers and fireworks	15%	15%	15%
Gasoline			
Motor gasoline and aviation gasoline (containing > 0.013 g of lead per litre)	RMB 0.28 per litre	RMB 1.4 per litre[b]	RMB 1.52 per litre[c]
Motor gasoline and aviation gasoline (containing < 0.013 g of lead per litre)	RMB 1 per litre	RMB 1.4 per litre[b]	RMB 1.4 per litre
Diesel oil	RMB 0.8 per litre	RMB 1.1 per litre[b]	RMB 1.2 per litre[c]
Aviation kerosene	RMB 0.8 per litre	RMB 1.1 per litre[b]	RMB 1.2 per litre[c]
Naphtha	RMB 1 per litre	RMB 1.4 per litre[b]	RMB 1.52 per litre[c]
Solvent	RMB 1 per litre	RMB 1.4 per litre[b]	RMB 1.52 per litre[c]
Lubricants	RMB 1.4 per litre	RMB 1.4 per litre[b]	RMB 1.52 per litre[c]
Fuel oil	RMB 0.8 per litre	RMB 1.1 per litre[b]	RMB 1.2 per litre[c]
Motor vehicle tyres	3%	3% (removed 1.12.2014)	n.a.
Motorcycles			
With a cylinder capacity of less than or equal to 250 ml	3%	3% (removed 1.12.2014)	n.a.
With a cylinder capacity over 250 ml	10%	10% (until 30.11.2014) and 3% (=250ml), 10% (>250ml) as of 1.12.2014	3% (=250ml) 10% (>250ml)
Motor vehicles[c]			
Passenger vehicles with less than 9 seats with a cylinder capacity of			
- less than 1,000 ml	1%	1%	1%
->1,000 ml, but < 1,500 ml	3%	3%	3%
-> 1,500 ml, but < 2,000 ml	5%	5%	5%
-> 2,000 ml, but < 2,500 ml	9%	9%	9%
-> 2,500 ml, but < 3000 ml	12%	12%	12%
-> 3,000 ml, but < 4,000 ml	25%	25%	25%
- 4,000 ml or more	40%	40%	40%
Middle-size or light passenger vehicles for commercial purposes	5%	5%	5%
Yachts	10%	10%	10%
Luxury watches, with a unit price higher than RMB 10,000	20%	20%	20%
Golf equipment	10%	10%	10%
Solid wood flooring	5%	5%	5%
Disposable chopsticks	5%	5%	5%
Batteries			4%
Paint			4%

a Cai Shui [2015] No. 60, MOF SAT Circular on Adjusting Tobacco Exercise Tax. Viewed at: http://www.chinatax.gov.cn/n810341/n810765/n1465977/n1466042/c1754889/content.html.
b SAT Announcement No. 65 of 2014, Announcement on Issues of Refined Oil Exercise Tax. Viewed at: http://www.chinatax.gov.cn/n810341/n810755/c1350768/content.html; and Cai Shui [2014] No. 106, MOF SAT Circular on Further Increasing Exercise Tax of Refined Oil. Viewed at: http://szs.mof.gov.cn/zhengwuxinxi/zhengcefabu/201412/t20141212_1166868.html.
c Cai Shui [2015] No. 11, MOF SAT Circular on Further Increasing Exercise Tax of Refined Oil. Viewed at: http://szs.mof.gov.cn/zhengwuxinxi/zhengcefabu/201501/t20150112_1178890.html.

n.a. No longer applied.

Source: Information provided by the authorities.

3.1.6 Import prohibitions, restrictions, and licensing

3.22. Import prohibitions, restrictions and non-automatic licensing are maintained in China to safeguard national security; public morality; human, animal and plant health; the environment and exhaustible natural resources; to comply with China's obligations under international agreements; and for balance-of-payments reasons.[41] China notified that it applies an import licensing regime, under which there are three types of licences: automatic licences, non-automatic

[41] Article 16 of the Foreign Trade Law. Viewed at: http://www.gov.cn/flfg/2005-06/27/content_9851.htm (in Chinese only); Central People's Government of China online information. Viewed at: http://www.gov.cn/jrzg/2007-04/10/content_577619.htm (in Chinese); and WTO document G/LIC/N/CHN/13, 22 January 2015.

licences and tariff-rate quota certificates. According to China's last notification, the licensing regime has not changed substantially since the last Review in 2014.[42]

3.23. Goods subject to automatic import licensing are listed in the Catalogue of Goods subject to Automatic Licensing[43], which is issued annually by MOFCOM and the GACC, and in the Catalogue of Automatic Licensing for Solid Waste that lists the solid waste that can be used as raw material in China.[44] There were 396 products at the HS 8-digit level included in the Catalogue of Goods subject to Automatic Licensing in 2015 (46 products less than in 2013); and 17 products listed in the Catalogue of Solid Waste. The type of products subject to automatic import licensing has not changed since 2013, but the number of tariff lines has declined since 2013, as the automatic import licensing requirement was removed for certain machinery and equipment (Chapter 84) and vehicles (Chapter 87) (Chart 3.2). However, the Announcement of Incorporation into the Catalogue of Goods subject to Automatic Licensing of Goods (MOFCOM-GACC No. 34 of 2015), incorporated eight more tariff lines in the Catalogue.[45]

3.24. China classifies imports into three categories: not restricted, restricted and prohibited. Automatic import licensing is in place to monitor trade volumes of imports that are not restricted, for statistical purposes. As a result, there are no quantitative limits on imports of commodities subject to automatic import licensing. The authorities have stated that there have been no major changes regarding the process to obtain automatic import licences or their terms since the previous Review.[46] Importers may apply for an automatic import licence with the Commerce Departments at the different government levels, which issue them upon receipt of a correctly filed application. Automatic import licences are valid for six months and non-transferable.

3.25. Restricted goods are administered through non-automatic licences and/or quotas. Non-automatic licences apply to imports regardless of the origin, unless otherwise stipulated in the free trade agreements negotiated by China. Products subject to non-automatic licensing are listed in the Catalogue of Import Goods Subject to Licensing, issued by MOFCOM, the GACC and the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ), revised on an annual basis.[47] They are also listed in the Catalogue of Restricted Imports for Solid Waste.[48] In 2015, the Catalogue of Import Goods Subject to Licensing listed 89 tariff lines (87 in 2013) at the HS 8-digit level that were subject to non-automatic import licensing; and the Catalogue related to solid waste listed 45 lines (Chart 3.2). In 2015 as in 2013, imports subject to non-automatic licensing were mainly used machinery and electronic equipment. The terms and procedures to obtain a non-automatic import licence remain unchanged since the previous Review.[49]

3.26. During the period 2013-2014 China did not apply any import quotas.[50]

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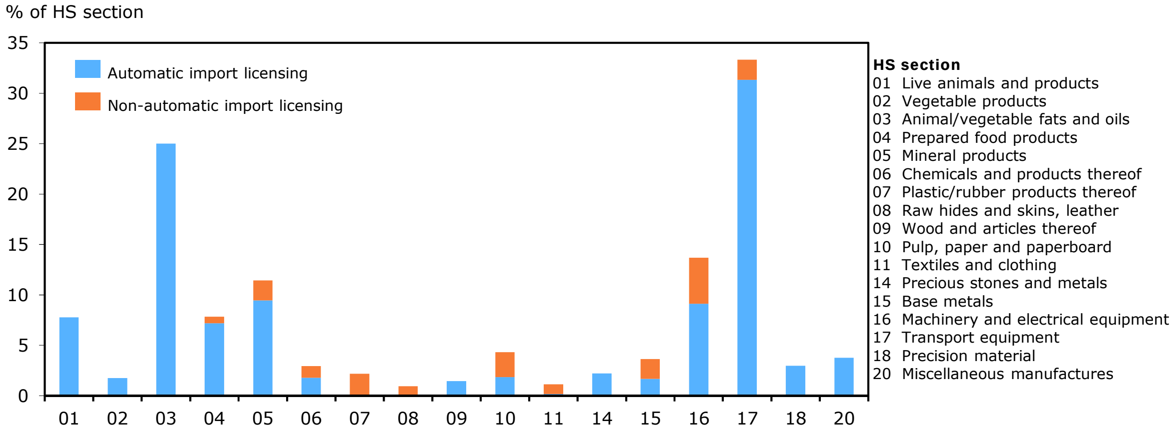
[42] WTO document G/LIC/N/CHN/13, 22 January 2015.
[43] Catalogue of Goods Subject to Automatic Licensing (2015), MOFCOM GACC Joint Announcement [2014] No. 93. Viewed at: http://www.mofcom.gov.cn/article/b/e/201412/20141200854848.shtml.
[44] Annex 3 of the Announcement on Amending Catalogues of Imported Wastes Management, MEP MOFCOM NDRC GACC AQSIQ Announcement [2014] No. 80. Viewed at: http://www.zhb.gov.cn/gkml/hbb/bgg/201412/W020141231557140670168.pdf (in Chinese only).
[45] The goods incorporated are: barley (HS1003.10.00, 1003.90.00), sorghum (1007.10.00, 1007.90.00), cassava (0714.10.10, 0714.10.20, 0714.10.30) and distiller's dried grains (2303.30.00).
[46] 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/13, 22 January 2015).
[47] Catalogue of Import Goods Subject to Licensing (2015), MOFCOM GACC AQSIQ [2014] Joint Announcement No. 95. Viewed at: http://www.mofcom.gov.cn/article/b/e/201412/20141200854863.shtml (in Chinese only).
[48] Annex 2 of the Announcement on Amending Catalogues of Imported Wastes Management, MEP MOFCOM NDRC GACC AQSIQ Joint Announcement [2014] No. 80. Viewed at: http://www.zhb.gov.cn/gkml/hbb/bgg/201412/W020141231557140614407.pdf.
[49] For more details refer to: WTO document G/LIC/N/CHN/13, 22 January 2015.
[50] WTO documents G/MA/QR/N/CHN/2 and G/MA/QR/N/CHN/3, 24 April 2015.

Chart 3.2 Import licensing by HS section, 2015



Note: Calculations are based on the 2015 tariff schedule at 8-digit level.

Source: WTO calculations, based on data provided by the authorities; and Ministry of Environmental Protection online information. Viewed at: http://www.zhb.gov.cn/.

3.27. 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, which dates to 2005. In 2015, China's notification listed 365 products (HS 8-digit level) including mainly machinery (Chapter 85) and transport equipment (Chapter 87).[51] Prohibited items related to solid waste are listed in the Catalogue of Prohibited Imports for Solid Waste, last amended in 2015.[52]

3.28. 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 and are listed in the Catalogue of Commodities Prohibited under Processing Trade.[53] The 2014 Catalogue included 486 tariff lines (in HS 2012 at the 8-digit level) compared to 394 in 2010. The increase in the number of tariff lines subject to import prohibition under processing trade is mainly related to tariff lines in HS Chapter 72 (iron and steel). The other products subject to these prohibitions have remained unchanged since the last Review.[54]

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 a Catalogue can be restricted or prohibited on a temporary basis by the relevant authorities. China's legislation also allows the authorities to, *inter alia*, restrict imports to allow the establishment of a particular domestic industry or to accelerate its development. Under Article 16 of the Foreign Trade Law, imports of agricultural, animal and fish products may also be restricted if circumstances require it. The authorities have noted that this provision has never been used.

3.30. In 2015, there were some 40 temporary prohibitions in place on sanitary grounds, which affected mainly animal products imported from European countries.[55] Also on sanitary grounds China has prohibited the importation of some types of logs and timber originating in several European countries.[56] In addition, since 1 October 2012, in order to improve energy efficiency and

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[51] WTO documents G/MA/QR/N/CHN/1, G/MA/QR/N/CHN/2, and G/MA/QR/N/CHN/3, 24 April 2015.

[52] Given the manner in which the items are listed in the Catalogue, the number of tariff lines affected cannot be estimated (Annex 1 of The Catalogue of Imported Wastes Management, Announcement [2014] No. 80 of the MEP. Viewed at: http://www.zhb.gov.cn/gkml/hbb/bgg/201412/t20141231_293678.htm).

[53] Under processing trade, imported inputs are processed and exported within a specific period of time. Catalogue of Commodities Prohibited under Processing Trade, MOFCOM GACC Joint Announcement No. 29 of 2014. Viewed at: http://www.mofcom.gov.cn/article/b/c/201412/20141200846002.shtml.

[54] Mainly: 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.

[55] Information provided by the authorities.

[56] WTO document G/SPS/N/CHN/632, 29 November 2013.

to protect the environment, China has banned imports of incandescent lighting.[57] As of 2012, imports of charcoal (HS 4402) from Somalia have been banned in order to comply with international obligations.[58]

3.1.7 Anti-dumping, countervailing, and safeguard measures

3.1.7.1 Anti-dumping measures

3.31. As was the case in the previous review, during the period examined the number of anti-dumping (AD) measures in place continued to decline. Measures continued to be concentrated in a few areas, in particular chemical products, which accounted for over 60% of the total number of measures in place as of 31 December 2015. Although the number of measures in place was lower than in the last review, their average length of application was longer, with an average of six and a half years, compared to the six years reported in the last review. In this respect, the authorities note that AD measures imposed by China will normally be terminated after 10 years.

3.32. China's legal framework to conduct AD investigations and apply AD measures was not modified during the period under review. The Foreign Trade Law, as amended, which entered into force on 1 July 2004, together with the relevant Regulations (the Anti-Dumping Regulations), and a number of published Rules, some of them provisional, provide the basis for investigating dumping cases and applying AD remedies.[59]

3.33. MOFCOM is the agency responsible for initiating and conducting AD investigations, and determining the existence of dumping, of injury, and their causal link. There have been recent internal changes within MOFCOM with respect to the responsibilities assigned to its different bureaus. In April 2014, a Trade Remedy and Investigation Bureau (TRB) was established within MOFCOM. The TRB consolidated the functions of the former Bureau of Fair Trade for Imports and Exports (BOFT) and those of the Investigation Bureau of Industry Injury (IBII) in the area of trade remedy investigations, and is currently responsible for AD, countervailing duty, and safeguards investigations and determinations and for other trade remedy measures. The exceptions to this are AD investigations involving agricultural products, where the injury investigation is conducted jointly by MOFCOM and the Ministry of Agriculture. The authorities consider that the changes will improve the efficiency of trade remedy investigations, reduce interested parties' burden in litigation, and streamline the investigation procedures, while not compromising the independent determination of margin of dumping and injury.

3.34. The Provisional Rules of the Ministry of Foreign Trade and Economic Co-operation on Initiation of Anti-dumping Investigations regulate the initiation of AD investigations.[60] These may be initiated at the request of an interested party or may be self-initiated by MOFCOM. Petitions to initiate an AD investigation on behalf of the domestic industry must be presented to MOFCOM in writing, by natural or legal persons, or organizations, representing the domestic industry. MOFCOM must decide within 60 days of the date of receipt of a petition whether there are valid grounds to initiate an investigation. If MOFCOM decides to initiate an AD investigation, a Public Notice is issued. Information that is considered non-confidential regarding an investigation is available to the public; if MOFCOM decides to treat the information provided as confidential, interested parties are requested to provide non-confidential summaries, as per Article 22 of the Foreign Trade Law.

3.35. MOFCOM must make a preliminary determination of dumping and injury, and with respect to whether or not there is a causal link between them. This preliminary determination must be published. If it is affirmative, the investigation continues and provisional AD measures may be applied, but not earlier than 60 days from the date of publication of the investigation initiation decision. Provisional measures generally take the form of provisional AD duties, but they may also consist of a request to provide deposits, bonds, or other forms of guarantee. The decision to apply provisional AD duties is made by the State Council Tariff Commission (SCTC) on

[57] NDRC Announcement [2011] No. 28. Viewed at: http://www.gov.cn/zwgk/2011-11/14/content_1992476.htm (in Chinese only).

[58] MOFCOM Announcement [2012] No. 27. Viewed at: http://www.mofcom.gov.cn/article/b/c/201207/20120708252386.shtml

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

[60] WTO document G/ADP/N/1/CHN/2/Suppl.1, 18 February 2003.

the recommendation of MOFCOM, but for measures of a different type, such as the constitution of a deposit or a bond, the decision is made directly by MOFCOM. Provisional measures may not in principle be applied for more than four months; however, they may be extended to nine months in cases classified as presenting "special circumstances", which according to the authorities refers to cases where the investigating authorities are examining whether a duty lower than the margin of dumping would be sufficient to remove the injury to the domestic industry.[61]

3.36. After MOFCOM has made a preliminary affirmative determination of dumping injury and causation, price undertakings can be offered by the exporter or suggested to the exporter by MOFCOM. To decide to accept an undertaking, MOFCOM must take into account whether it would result in the elimination of the injury determined, and the possibility of circumvention. If the price undertaking is accepted, MOFCOM may suspend or terminate the AD investigation.

3.37. Although the general practice is to determine a separate margin of dumping for each individual responding exporter or producer, MOFCOM is authorized to make use of a sampling method in investigations where the number of exporters or producers is so large that it would be unduly burdensome and prevent the timely completion of the investigation. MOFCOM has the faculty to decide on the selection of exporters and producers for the sample and determines a separate margin of dumping for each individual exporter and producer selected in it. The margin of dumping for responding exporters and producers 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. The authorities indicated that sampling has been used in three investigations in 2014 and 2015.

3.38. Chinese regulations also allow MOFCOM to have recourse to 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. The authorities have indicated that sampling of products has not been used in any investigations.

3.39. An AD 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. Once it has determined the existence of dumping, injury, and causation, MOFCOM submits its findings and provides recommendations to the SCTC, which makes the final decision as to whether to impose AD duties based on MOFCOM's recommendations. The final determination is then published. In the context of its last Review, China stated that the final determination published by MOFCOM contains complete information on the reasons for levying AD duties and the basis for applying the measure.[62]

3.40. AD duties may not exceed the margin of dumping established in this determination. Although China's AD regulations do not preclude the imposition of a duty lower than the margin of dumping provided it eliminates the injury caused by dumped imports, the investigating authorities do not currently examine if a duty lower than the margin of dumping is sufficient to eliminate injury.

3.41. MOFCOM's decisions may be appealed by interested parties, which, if not satisfied, may request an administrative reconsideration by the Department of Treaties and Law or may bring the case directly to court. The decision resulting from an administrative reconsideration may be brought to court. The authorities indicated that, since 2010, there has been one AD case, in which the company was not convinced by the award made by the investigation authority and requested an administrative review and administrative litigation with the competent authority and court. The product involved was isotropic silicon electrical steel and the applicants were two Russian companies. The companies withdrew their claim in April 2014.

3.42. In accordance with the Provisional Rules of the Ministry of Foreign Trade and Economic Cooperation on Refund of Anti-Dumping Duty[63], importers may apply for a refund within three months of payment of the duty if they can provide evidence that the AD duty paid was higher than the margin of dumping. Applications are examined by MOFCOM, which makes a

[61] WTO document G/ADP/Q1/CHN/54/Suppl.1, 2 May 2005.
[62] WTO document WT/TPR/M/300/Add.1, 9 September 2014.
[63] WTO document G/ADP/N/1/CHN/2/Suppl.1, 18 February 2003.

proposal for decision to the SCTC. MOFCOM calculates an updated margin of dumping for the product for the six-month period prior to the application and, if found lower than the initial duty determination, refunds the difference to the importer. No interest is paid on the refund. As was the case in the previous review, there have been no requests for refunds during the period under review.

3.43. Article 56 of the AD Regulations allows for the imposition of retaliatory measures in cases where Chinese producers are deemed to have been unjustly treated in foreign AD investigations. The authorities have repeatedly stated that these provisions have not been used. In the course of China's last Review, Members asked whether Art. 56 contradicted Art. 17 of the Anti-Dumping Agreement (ADA), to which China replied that there was no direct connection between both and reaffirmed that it would resort to WTO rules for dispute settlement before taking counter measures.[64]

3.44. Final AD measures may be in place for a maximum of five years, but may be extended thereafter following review. China's AD Regulations contain provisions regarding "expiry" (sunset) and "interim" reviews. With respect to sunset reviews, 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. If there is no petition to conduct a sunset review, the AD measure is automatically terminated and a public notice is issued. 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. However, the authorities indicated that this has never happened. As with sunset reviews, MOFCOM must conclude interim reviews within 12 months of the initiation date. Preliminary determinations need not be made; sampling methods may be used.

3.45. The number of AD investigation initiations by China fell from 11 in 2013 to seven in 2014, but rose again to 11 in 2015. Initiations during the period affected imports from Canada; Brazil; the European Union; India; Japan; the Republic of Korea; Singapore; Thailand; and the United States. Of the 18 investigations initiated in 2013 and 2014, 16 resulted in provisional measures and two were terminated due to the withdrawal of the complaint.[65] In 13 of the 16 cases subject to provisional measures, the measures took the form of duties; in the remaining three cases, the provisional measures took the form of a deposit.[66] Despite the lower number of initiations in 2014, there was a higher number of definitive AD duty orders issued in that year (12), compared to 2013 (8) and 2012 (5). This was due to the fact that 9 out of the 11 investigations initiated in 2013 resulted in definitive AD duty orders, while only one was terminated due to the withdrawal of the complaint, and in another the volume of dumped imports was found to be less than 3% of imports, and no definitive duties were applied. Only five definitive AD measures were applied in 2015. All 11 cases initiated in 2015 were still under investigation as at 31 December 2015; in three cases provisional duties had been applied.

3.46. China had 91 AD duty orders in effect as at 31 December 2015, down from the 113 measures reported for December 2013 in the previous Review.[67] Imports from 13 countries or territories were affected, three less than in the previous review. In late December 2015, imports from the United States and Japan were subject to the largest number of AD duty orders (19, accounting for 23.1% of the total in each case, compared to 20 and 22, respectively, in the previous Review). They were followed by the EU (15, the same as in the previous Review, or 16.5% of total orders), the Republic of Korea (10 compared with 16, or 11%), and Chinese Taipei (8 compared to 11, or 8.8%). Chemical products accounted for 61.5% of these orders as of 31 December 2015, while some 17.6% involved resins, plastics, and rubbers. Other categories subject to AD duty orders were paper, machinery and equipment, base metal products, and prepared foodstuffs, which accounted for a combined total of 20.9% of all orders (Table 3.5); 60.8% of AD duty orders (59 out of 97) had been in place for five years or more, slightly up from 60.2% reported in the previous Review.

[64] WTO document WT/TPR/M/300/Add.1, 9 September 2014.
[65] WTO documents G/ADP/N/272/CHN, 7 September 2015; G/ADP/N/265/CHN, 23 January 2015; G/ADP/N/259/CHN, 18 September 2014; and G/ADP/N/252/CHN, 5 February 2014.
[66] MOFCOM Announcement [2015] No. 29, On Preliminary Ruling of Anti-dumping Investigation against Imports of Methyl Methacrylate Originated in Singapore, Thailand and Japan. Viewed at: http://english.mofcom.gov.cn/article/policyrelease/buwei/201509/20150901105238.shtml .
[67] WTO documents G/ADP/N/280/CHN, 10 March 2015; and G/ADP/N/252/CHN, 5 February 2014.

Table 3.5 Anti-dumping measures by product and by country (in force as at 31 December 2015)

Member	(a)	(b)	(c)	(d)	(e)	(f)	(g)	Total
United States	12	2	1	2	2			19
Japan	11	2	3	2	1			19
European Union	7	2	2	1	2		1	15
Korea, Rep. of	8	2						10
Chinese Taipei	5	3						8
India	4	1						5
Russian Federation	3	1						4
Singapore	3	1						4
France	1	1						2
Thailand	2							2
Brazil				1				1
Canada				1				1
Italy		1						1
Total	**56**	**16**	**6**	**7**	**5**	**0**	**1**	**91**

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/280/CHN, 10 March 2016.

3.47. There was a decrease in the number of sunset reviews conducted during the period under review, and a substantial increase in the number of investigations that were terminated without a review. Between January 2014 and 31 December 2015, 20 sunset reviews and four interim reviews were initiated. The number of investigations subject to a sunset review represented some 35.1% of the AD measures expiring during the period (20 out of 57), compared to 62.5% reported in the previous Review. Eight of the 20 sunset reviews initiated in 2014 and 2015 had been concluded by late December 2015: six resulted in the application of duties and two were terminated by the authorities. All four reviews initiated in 2013 resulted in an extension of AD duties. The results of the interim reviews initiated in 2015 were still pending as at end-2015.

3.48. China's lower rate of renewal of AD measures following sunset reviews addresses worries expressed in the past with respect to the results of these reviews. In China's previous Review, concern was expressed with respect to the length of application of AD measures and their frequent renewal after a sunset review as well as with respect to the vagueness and generality of the provisions for review of AD measures. Members invited China to issue rules governing more specifically and clearly the review procedures. China replied that it conducted a fair and transparent sunset review investigation process in accordance with its AD Regulations and the common practice of WTO Members.[68]

3.1.7.2 Countervailing measures

3.49. The Foreign Trade Law, the Regulations on Countervailing Measures (CV Regulations), promulgated in 2001 and amended on 31 March 2004, and a number of provisional rules[69], comprise the main legal framework for the application of countervailing measures in China. The main laws and regulations have not changed during the review period.

3.50. Countervailing (CV) investigations are subject to procedures similar to those applied for AD investigations, with a few exceptions. The principal difference is that the exporting country's Government is involved in the investigations, through a process of consultations with MOFCOM prior to the investigation's initiation, or by answering the CV questionnaire. If a mutually agreeable solution is found as a result of the consultations, MOFCOM may decide not to initiate an investigation. Other differences include the absence of published rules for the use of sampling or to

[68] WTO document WT/TPR/M/300/Add.1, 9 September 2014.
[69] Provisional Rules on Initiation of Countervailing Investigations; Provisional Rules on Questionnaires on 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.

conduct interim or judicial reviews and the lack of provisions to regulate the use of price undertakings to settle a CV investigation.

3.51. Petitioners must provide MOFCOM with a description of the alleged subsidy, including information regarding the existence, nature and amount of the subsidy, and an estimation of the subsidy per unit. Hearings for the determination of a subsidy are held publicly unless otherwise decided by MOFCOM, generally in cases where there is concern with respect to state or commercial secrets or personal privacy.

3.52. After the three CV investigations initiated in 2012 concerning saloon and cross-country cars (new shipper review) originating in the United States, and solar-grade polysilicon (HS 2804.61.90) originating in the EU and the United States, only one investigation was initiated in 2013 (EU, wines), which was terminated due to the withdrawal of the petition.[70] No investigations were initiated in 2014 or 2015. In the investigation regarding solar-grade polysilicon initiated in 2012, 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 in one case (the United States) and a duty undertaking in the other (EU). As at 31 December 2015, there were four CV measures in place affecting imports from the EU and the United States (Table 3.6). A fifth measure regarding grain-oriented flat-rolled electrical steel from the United States expired on 10 April 2014, as MOFCOM did not receive a petition for a sunset review.[71] As at end-2015, the longest existing CV measure had been in place for slightly over five years. In late August 2015, China started a sunset review of the measure applied to broiler products from the United States.[72]

Table 3.6 Countervailing investigations and measures, 31 December 2015

Country	Product	Initiation	Provisional measures	Final measures	Import volume as % of total imports
United States	Solar-grade polysilicon	20.07.2012	16.09.2013 0%-6.5% All others: 6.5%	20.01.2014 0%-2.1% All others: 2.1%	34.53
	Broiler products	27.09.2009	28.04.2010 3.8%-11.2% All others: 31.4%	29.08.2010 4%-12.5% All others: 30.3%	73
EU	Potato starch	30.08.2010	19.05.2011 7.7%-11.19% All others: 11.19%	16.09.2011 7.5%-12.4% All others: 12.4%	90.27
	Solar-grade polysilicon	20.07.2012	24.01.2014 10.7% All others: 10.7% (MOFCOM provisionally determined not to levy)	30.04.2014 1.2% All others: 1.2% Undertaking 14.03.2014	22.56

Source: WTO documents G/SCM/N/274/CHN, 15 September 2014; G/SCM/N/281/CHN, 28 January 2015; G/SCM/N/289/CHN, 22 October 2015; and G/SCM/N/298/CHN, 17 March 2016.

3.53. 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 ASEAN, Australia, Chile, Costa Rica, Iceland, the Republic of Korea, New Zealand, Pakistan, Peru and Switzerland, the parties maintain their rights under the Anti-Dumping and Subsidies and Countervailing Measures Agreements.

3.1.7.3 Safeguards

3.54. China is not an active user of global safeguards. During the period under review, and as was the case for the previous review, China did not initiate any safeguard investigations pursuant to the WTO Agreement on Safeguards. 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.

[70] WTO documents G/SCM/N/274/CHN/, 15 September 2014; and G/SCM/N/281/CHN, 28 January 2015.
[71] WTO document G/SCM/N/289/CHN, 22 October 2015.
[72] WTO document G/SCM/N/298/CHN, 17 March 2016.

3.55. Procedures with respect to safeguard investigations and the adoption of measures are mainly governed by the Foreign Trade Law and the Regulations on Safeguards (SG Regulations). Other legislation with procedures relating to safeguard investigations include: the Provisional Rules for Initiation of Safeguards Investigations; the Provisional Rules for Conduct of Public Hearings in Safeguards Investigations; the Rules on Investigations and Determinations of Industry Injury for Safeguards; and the Rules on Public Hearings with regard to Investigations of Injury to Industry.[73] The main laws and regulations have not changed during the review period.

3.56. Safeguard investigations are under the responsibility of MOFCOM, which is also in charge of investigating and determining if there has been an increase in imports and if injury has been caused. In those cases where an investigation involves agricultural goods, the investigation and determination of injury must be done jointly with the Ministry of Agriculture. Investigations may be initiated following the written request of an interested party representing the domestic industry. The application must be accompanied by detailed information with respect to the increase in quantities of the imported product, for a period of at least five years, as well as an analysis of reasons for the increase in imports. MOFCOM may also initiate an investigation *ex officio* if it has sufficient evidence of injury. MOFCOM must review the evidence provided by the petitioner and make a decision on whether to initiate an investigation within 60 days of receipt of the written application; this period can be extended in cases considered particularly complicated. The decision to initiate an investigation must be published and notified promptly to the WTO Committee on Safeguards.

3.57. MOFCOM has the faculty to apply provisional safeguard measures, but they cannot be in place for longer than 200 days. Final measures may take the form of tariff increases or quantitative restrictions. If a recommendation to apply a final measure in the form of tariff increases is made by MOFCOM, the SCTC on the basis of MOFCOM's proposal will make the decision of whether or not to apply the measure. Decisions to adopt a final measure in the form of a quantitative restriction are made directly by MOFCOM. The decision to apply a final safeguard measure is published by way of Ministerial Decree on MOFCOM's website.

3.58. Final safeguard measures may not remain in place for more than four years, except under special circumstances. The period of application of a safeguard measure may be extended if its continuation is deemed to be necessary to prevent or remedy serious injury, there is evidence that the domestic industry concerned is undergoing adjustment, and the extended safeguard measure is not more restrictive than the initial one. The total period of application of a safeguard measure and any extension of it cannot exceed 10 years. MOFCOM must conduct a mid-term review of the safeguard measure when its duration exceeds three years. When the period of application of a safeguard measure exceeds one year, the measure applied must be progressively liberalized at regular intervals during the period of application. There is no appeals mechanism against decisions taken by the authorities.

3.59. The RTAs with New Zealand and Singapore provide that a party may exclude imported goods originating from another party from the imposition of 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, Australia, Chile, Costa Rica, Iceland, the Republic of Korea, Pakistan, Peru and Switzerland provide that the parties maintain their right under Article XIX and the WTO Agreement on Safeguards. All RTAs preclude the simultaneous imposition of a global safeguard and a bilateral safeguard under the relevant RTA.

3.1.8 Standards and other technical requirements

3.1.8.1 Standards and technical regulations

3.60. China has four kinds of standards: national, industry/sectoral, local, and enterprise standards. The first three types can be either voluntary or mandatory (technical regulations). National standards are developed for adoption at the national level, while industry/sectoral standards, which are also applicable nationwide, are developed in the absence of a national standard, where specific conditions must be complied with in a professional field at the national level. Standards may also be developed locally (local standards) when national or industry/sectoral standards do not exist. However, if and when equivalent national standards are developed, these

[73] WTO document G/SG/N/1/CHN/2/Suppl.2, 15 April 2003.

replace local and industry/sectoral standards. The exception to this is in cases where the local standards are stricter national ones. Enterprise standards may be developed for an enterprise when national, industry/sectoral or local standards are not available.

3.61. The Standardization Administration of China (SAC), under the General Administration of Quality Supervision, Inspection, and Quarantine (AQSIQ), centralizes the administration of the standardization system in China. In general terms, the SAC is in charge of the overall coordination and unified management of China's national standardization system, as well as of the development of national policies and strategies with respect to standardization. The SAC is also in charge of approving, numbering and issuing national standards, both voluntary and "mandatory" standards (as technical regulations are referred to in China). The SAC is assisted in its functions and activities 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.[74] The CAS and some non-governmental organizations affiliated to AQSIQ, such as the China National Institute of Standardization (CNIS) 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.[75] The CAS also disseminates the proper use and application of standards.

3.62. According to the relevant provisions of the Regulations for the Implementation of the Standardization Law of the People's Republic of China, the Ministry of Industry and Information Technology (MIIT) is mainly responsible for the development and revision of standards in the following areas: chemicals, petrochemicals, ferrous metallurgy, non-ferrous metals, rare earths, gold, building materials, machinery, automotives, shipping, aviation, light industry, textiles, packaging, aerospace, ordnance products for civilian use, nuclear products, electronics and communications. The China Electronics Standardization Institute (CESI), under MIIT, engages in standardization in the field of electronics. The China Communications Standards Association (CCSA), organized with the approval of the MIIT and registered with the Ministry of Civil Affairs, engages in standardization activities in the field of Information and Communications Technology (ICT) across China.

3.63. AQSIQ is the ministerial administrative organ in charge of national quality, metrology, entry-exit inspection, animal and plant quarantine, certification, accreditation, standardization, and administrative law enforcement. AQSIQ is also the body in charge of ensuring that both imports and exports comply with technical regulations and certification requirements.[76] AQSIQ administers the Certification and Accreditation Administration of China (CNCA).

3.64. The Standardization Law (1988) and the Regulations for the Implementation of the Standardization Law (1990) continue to constitute the main legislation with respect to standards in China. Other pieces of legislation have, however, an impact on standards and technical regulations. The revised Regulations on the Supervision and Administration of Medical Devices (State Council Decree No. 650), which came into force on 1 June 2014, introduced a number of changes in this area, mainly aimed at increasing supervision and safety. These included: the revision of the definition of and classification rules for medical devices and improvements to the

[74] Both domestic and registered foreign-funded enterprises may participate in China's national standardization activities. They must file an application to participate in the corresponding technical committee, as specified in the Administration Provisions on National Professional Standardization Technology Committee (Guo Biao Wei Ban [2009] No. 3). The Provisions, Registration Form for Members of the National Standardization Technical Committee and relevant information on the technical committee are available at: http://www.sac.gov.cn. (WTO document G/TBT/M/300/Add.1, 9 September 2014).

[75] The CAS is a nationwide public association of organizations and individuals engaged in voluntary standardization across China. It is approved by the Ministry of Civil Affairs and led by AQSIQ. Its main activities include: conducting research on policies, laws, and regulations related to standardization; providing certification services; and disseminating knowledge on standardization. The CNIS is a non-profit national research body affiliated with AQSIQ and engaged in standardization research, whose main responsibilities are to conduct strategic and comprehensive research on standardization, to research and develop a range of fundamental standards, as well as to provide authoritative standards information services. China Association of Standards (CAS). Viewed at: http://www.chinacsrmap.org/Org_Show_EN.asp?ID=539; and China National Institute of Standardization. Viewed at: http://en.cnis.gov.cn/faq/201305/t20130527_14361.shtml.

[76] 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.

approval or filing system for product registration and production, which now allows product registration to take place before a production licence has been granted. Also, the record-filing of first class medical devices can now be done at the local or city-level food and drug regulators, instead of at the provincial level, as was previously the case; this is meant to facilitate procedures. The revised regulations have also strengthened supervision and administration of the use of medical devices, calling for the introduction of systems such as medical-device-related adverse event monitoring, traceability, and recall, and imposing greater penalties for illegal acts.

3.65. The procedures to formulate national standards are stipulated in the Measures on Administration of National Standards, Order No. 10 of 24 August 1990.[77] In China, standardization is part of the Government's policy taking into account the needs of the different industries. The formulation process is mainly in public hands, while the respective industry plays a supportive role. The development of national standards is organized by the SAC, through a process that comprises a number of steps: a pre-research stage, project initiation, drafting of the proposed standard, opinion solicitation, examination of the technical contents, approval, and publication. National standards are published in the Standard Press of China. They are reviewed after five years of implementation to confirm whether they are still valid and required as they stand, or if they need to be amended or annulled. If it is decided that the standard should be annulled, a Notice of Annulment is issued. If it is retained, the results of the review are made public, and any modification to the standard listed in the National Standards Development and Revision Plan.

3.66. Industry/sectoral standards are formulated by the relevant technical committees. The standardization administrations of the competent ministries, with the support of the industry institutes of standardization and technical committees, are in charge of establishing industry/sectoral standard development plans and approving the corresponding standards. Most national and industry/sectoral standards are filed and stored at the National Library of Standards, but this is not mandatory. Local standards are formulated by the standardization authorities of provinces, autonomous regions and municipalities directly under the Central Government in accordance with the Administrative Measures on Local Standards. Industry/sectoral and local standards must also be reviewed within five years of their implementation. The formulation procedures for enterprise standards are determined by the enterprises themselves.

3.67. Chinese standards are divided into mandatory and voluntary standards. Mandatory standards are technical regulations. They are mainly related to the protection of human health, personal property and safety, and are applied usually to: medicines, food hygiene, veterinary drugs, and pesticides; labour and transportation safety; construction; environmental emissions; and technical terminology. When a technical regulation is to be developed, it must be stipulated that it will be a mandatory standard. To this end, for national standards, at the project initiation stage, the standardization authority requests an assessment by experts of the need and feasibility of making the proposed standard mandatory. Once this is determined, the procedures to develop and issue a standard and a technical regulation have some differences: at the technical examination stage, mandatory standards must be publicly reviewed by convening meetings and the period to receive comments cannot be less than two months. Also, before their approval, mandatory standards with an impact on trade and not resulting from the adoption (without changes) of an international standard must be notified to the WTO. Voluntary standards cannot in principle become mandatory standards since the nature of the standard has been determined at the beginning of its formulation procedures. However, a (voluntary) standard could be referenced in a technical regulation, making it mandatory. Government agencies, such as the NDRC and the MIIT, have the faculty to approve and promulgate technical regulations that may make reference to voluntary standards, rendering them mandatory.

3.68. According to information provided by the authorities at end-2014 some 74.3% of mandatory standards and some 75.2% of voluntary standards were adoptions or an adaptation of international standards, compared to 69.0% and 73.7% at end-2013. There were some 29,000 standards in place, of which some 15% were mandatory. Of the national standards approved in 2015, only 5.9% were mandatory; in 2014, the ratio was 11.7%. No local standards complied with international standards as at end-2013 (Table 3.7).[78]

[77] Order No. 10, 24 August 1990. Viewed at: http://www.csms.org.cn/fagui/fagui_03.html.
[78] WTO document G/TBT/M/300/Add.1, 9 September 2014.

Table 3.7 Standards approved, 2013-15

	2013	2014	2015
National standards	1,870	1,530	1,930
Mandatory	211	176	113
Voluntary	1,627	1,346	1,817
Sectoral standards	4,522	5,324	4,414
Mandatory	219	152	70
Voluntary	4,293	5,143	4,344
Local standards	3,239	3,536	4,004
Mandatory	141	140	125
Voluntary	3,098	3,396	3,879

Source: Information provided by the Chinese authorities.

3.69. AQSIQ is China's TBT Enquiry Point and the body responsible for preparing, checking and submitting China's TBT notifications. In 2014 and 2015 China submitted 141 TBT notifications, most of them 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, and were related to chemical products, machinery, electronic equipment, and transport equipment.[79] During the review period, Members raised 11 specific trade concerns against China. Concerns were raised regarding *inter alia*, the rationale, legitimacy and transparency of the applied measure. These measures applied to: cosmetics; drugs and medical devices; IT equipment; children's footwear; and new chemicals.[80]

3.70. During its last Trade Policy Review in 2014, China was invited to streamline and review the domestic standards framework, and to look into replacing local standards with national standards where relevant. China replied that it was actively facilitating integration and optimization of mandatory national, industrial and local standards to reduce the number of standards.[81] During the current Review, the authorities noted that a reform of the standardization system is under way, and that a new mandatory national standards system will be established. As a result, the State Council issued a Plan for Deepening Standardization Reform on 15 March 2015 and work has been carried out to eliminate unnecessary standards: the authorities indicated that by January 2015, 4,354 local standards had been annulled.

3.1.8.2 Product certification

3.71. China administers both a voluntary certification system and a compulsory product certification system. The China National Certification and Accreditation Administration (CNCA), under AQSIQ, manages both systems. Certification and accreditation are regulated by: the Standardization Law; the Product Quality Law; the Import and Export Commodity Inspection Law; the Regulations on Certification and Accreditation; the Regulations on Compulsory Product Certification[82], as well as the Measures for the Administration of Certification Bodies; the Measures for the Administration of Certification Certificates and Certification Marks; the Measures for the Administration of Organic Product Certification; and the Measures for the Administration of Energy-saving and Low-carbon-emission Product Certification.

3.72. China's compulsory product certification system, which applies to both domestic products and imports, was established in 2001 to enforce product compliance with technical requirements. The products subject to compulsory product certification are listed in the Compulsory Product Certification Catalogue (CCC Catalogue); they cannot be sold in China or imported without China's Compulsory Certificates (CCC) and the corresponding CCC marks.[83] The CCC certification system is mainly based on national compulsory standards. The products that have been listed in the compulsory certification directory may only leave the factory, be sold, imported, and used in other business activity after they have been certified and labelled.

3.73. The CCC Catalogue is approved and released jointly by AQSIQ and the CNCA, together with the relevant industrial administrative departments, if approval from the industry regulator is

[79] WTO documents G/TBT/N/CHN/ series from 2 January 2014 to 10 November 2015.
[80] Information available at the TBT Information Management System database: http://tbtims.wto.org/web/pages/search/stc/Search.aspx.
[81] WTO document G/TBT/M/300/Add.1, 9 September 2014.
[82] AQSIQ Decree [2009] No. 117. Viewed at: http://www.aqsiqccc.com/en/aqsiq/ccc-5.html.
[83] AQSIQ Decree [2002] No. 5, Administrative Measures for Compulsory Product Certification.

required. Responsibility for the general administration of the compulsory product certification system and its implementation lies with the CNCA. This involves updating the CCC Catalogue, drafting and promulgating the implementing rules for the compulsory certification of products listed in the CCC Catalogue, designing and promulgating certification marks, defining the requirements for CCCs, designating certification bodies, testing laboratories and inspection bodies, carrying out conformity assessment activities for CCC certification, designating the organization that issues CCC marks, and handling complaints and appeals related to compulsory product certification. The CNCA may also authorize local Quality and Technical Supervision Bureaus and Local Entry-Exit Inspection and Quarantine Bureaus as local certification supervision authorities for products listed in the CCC Catalogue in areas under their administration. Random conformity sampling tests are conducted on imports that have already acquired a CCC.

3.74. In 2015, the Catalogue listed 158 products including: motor vehicles and safety parts, tyres for motor vehicles, electrical wires, circuit switches, low-voltage electrical apparatus, low power motors, electrical tools, household electrical appliances, audio and video equipment (excluding for broadcasting service), information technology equipment, telecommunication terminal equipment, safety glass, agricultural machinery, fire-fighting equipment, safety protection products, wireless LAN (local area network) products, home decor, and remodelling products and toys. In 2015, there were 493 tariff lines at the 10-digit level that were subject to the CCC mark. Over 80% of the lines covered items in HS Chapters 84 (machinery and mechanical appliances), 85 (electrical machinery and equipment), and 87 (vehicles).[84]

3.75. To obtain the CCC mark, an application must be submitted 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. In the context of the present Review, the authorities have indicated that there are 22 mandatory certification bodies.[85] The application must be accompanied by supporting material required under the specific product certification rules. A review committee is established by the CNCA, which analyses the application through the examination of files, and the organization of meetings and hearings.[86] The investigation may also include type-testing of product samples through a CNCA-designated test laboratory in China, and factory inspection by representatives of a CNCA-designated certification body. The resulting report will be analysed by the CNCA, which must make a decision within 10 days or 15 days under special circumstances. If a product meets the certification requirements, the CCC is issued and the applicant notified within 90 days of the date of the acceptance of the application. The CNCA's decision is published on its website. After a CCC is issued, certification bodies re-inspect the manufacturing facilities on a regular basis. The frequency depends on the security level and quality stability of the product and the classification status of the producing enterprise. Applications to renew the CCC must be submitted 90 days prior to the expiry of the certificate. CCCs are valid for five years from the date of approval of the application.

3.76. In 2014, the CNCA reformed the issuance and record-filing of CCCs and cancelled the annual examination requirement of the printing and mould pressing of CCC marks (Announcement No. 36 of 2014). Along with the reform of the compulsive product certification system, the CNCA adopted various measures to facilitate certification procedures for enterprises, shortening the time period of certification and easing the burden for enterprises during the application process. In 2015, another 10 certification bodies were designated to undertake CCC certification, and certification bodies and laboratories were designated on a unified basis so as to facilitate enterprises certification and testing, and, in addition, the three categories of information technology, audio and video equipment, and telecommunication terminal equipment were integrated into one (electronic products). The authorities have noted that some certification bodies

[84] CNCA Notice [2015] No. 23, Mandatory product certification directory of products and corresponding HS2015 codes. Viewed at: http://www.cnca.gov.cn/bsdt/ywzl/qzxcprz/gwgg/201508/t20150806_48944.html (in Chinese only).

[85] Among which: the China Quality Certification Centre; China Security Technology Certification Centre; China Agricultural Product Quality Certification Centre; China Safety Glass Certification Centre; Product Conformity Assessment Centre; Ministry of Public Security Fire; China Automotive Certification Centre (List of mandatory product certification bodies on the website of the CNCA. Viewed at: http://www.cnca.gov.cn/cnca/rdht/qzxcprz/jcjggljg/4731.html).

[86] The reviews examine the applicant's technical capabilities and credibility, and undertake a cost-efficiency analysis. They must be completed within 30 working days. CNCA online information. Viewed at: http://www.cnca.gov.cn/bsdt/szxkxm/qzscprzjgsyshjcjgzdsp/201203/t20120320_4448.shtml .

are already providing one-stop services.[87] In addition, designated certification and testing bodies have been encouraged to improve their "one-stop" service capacity to shorten the time period of the certification.

3.77. Under certain circumstances, exemptions from the CCC requirement may be granted. Eligible products include: goods used in research and testing, to test production lines with the intention of importing technology, and to maintain equipment; goods used to complement factory production lines (excluding office supplies); and goods imported temporarily, spare parts or materials imported under processing trade, parts of machines to be processed and then exported as a complete machine, or goods for exclusive use in commercial exhibitions.

3.1.8.3 Labelling

3.78. With respect to labelling, a number of laws and regulations are in force. They concentrate mainly on labelling and packaging of food, drugs and cosmetics, medical devices, and seeds. The labelling and packaging requirements for food are contained in the Provisions for the Administration of Food Labelling (AQSIQ Decree No. 123), the Provisions for the Supervision and Administration of Production of Food Additives (AQSIQ Decree No. 127), and the Announcement on the Issues Related to the Use of Mark of Corporate Food Production Licence (AQSIQ [2010] Announcement No. 34). The revised Food Safety Law adopted in April 2015 introduced more specific and detailed labelling and packaging requirements for pre-packaged and healthcare food. The labelling and packaging requirements for drugs and cosmetics are contained in the Drug Administration Law (Presidential Decree No. 45), the revised Regulations for the Implementation of the Drug Administration Law (State Council Decree No. 360), adopted in March 2014, and the Regulations for the Hygiene Supervision of Cosmetics (Ministry of Health Decree No. 3). Articles 34 and 35 of the revised Seeds Law specify the labelling and packaging requirements for seeds.

3.79. During the period under Review, the regulations that prescribe labelling and packaging requirements for medical devices were amended by State Council Decree No. 650.

3.1.9 Sanitary and phytosanitary requirements

3.80. The most important change regarding the legislation that regulates the SPS regime in China since the last Review, has been the promulgation of the Food Safety Law in 2015. The other laws and regulations that were in place at the time of the last Review, remain in place (Table 3.8). Existing legislation stipulates the procedures to establish SPS requirements and to regulate imports subject to SPS measures, including their inspection, quarantine and supervision.

Table 3.8 Laws and regulations related to China's SPS regime

Legal instrument	Promulgated / Amended
Laws	
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 Epidemic Prevention Law (2013 Amendment), further amended on 24 April 2015	03.07.1997/30.08.2007/29.06.2013/24.04.2015
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, 09.04.2004 and 29.07.2014
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	28.02.2009/24.04.2015, with effect 01.10.2015.

[87] As at December 2015, the certification bodies having completed the reform measures included: China Quality Certification Centre (CQC), China Certification Centre for Automotive Products (CCAP), China Quality Mark Certification Group (CQM) and Beijing Zhong Hua Combination Certification Co., Ltd. Other certification bodies were in the process of implementing the reform measures.

Legal instrument	Promulgated / Amended
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
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
Administrative Measures on Quarantine of Entry-Exit Yachts of Hainan Province	AQSIQ Decree No. 152 of 2013
Measures on Inspection, Quarantine, Supervision and Administration of Entry-Exit Non-Edible Animal Products	AQSIQ Decree No. 159 of 2014
Administrative Regulations for Entry-Exit Health Quarantine on Special Goods	AQSIQ Decree No. 160 of 2014

.. Not available.

Source: Information provided by the Chinese authorities.

3.81. The 2015 Food Safety Law aims at strengthening the domestic food safety management system. It imposes greater responsibility for food safety on food producers and traders, and on local governments; and at the same time imposes severe punishments to those that violate the Law. Some of the main amendments introduced by the Food Safety Law in 2015 are as follows:

- it adjusts the duties of food safety regulatory departments in accordance with the Plan for Reforming the State Council Agencies;
- includes the sale of edible agricultural products in the scope of the Law;
- allows food and drug regulators of the people's governments at county level to set up food and drug regulatory offices in towns or specific areas;
- improves the production licensing system for food additives;
- enhances the use of food safety risk monitoring results;
- lists the circumstances (six) under which a food safety risk assessment shall be conducted;
- establishes a food safety risk exchange system;
- calls for the intensification of the links between the formulation of food safety standards and food safety regulation;
- mandates that national food safety standards be formulated and issued by the health administrative authority of the State Council together with the food and drug regulator under the State Council;
- mandates that the limits of pesticide residues and residues from veterinary medicines, as well as test methods and rules, be formulated by the health administrative and agricultural administrative authorities of the State Council together with food and drug regulator under the State Council;
- establishes a registration system for infant formula powder and formulas for special medical purposes;
- increases the responsibility of food producers and traders for the implementation of food safety management rules;

- imposes requirements on food safety process control;
- establishes food safety self-inspection and reporting systems;
- calls for the establishment of a food safety tracing system,
- improves the food recall system and adds recall obligations for food operators;
- enhances the responsibility of local governments regarding implementation;
- intensifies innovation in regulatory means;
- strengthens industry self-discipline and enhances supervision by consumers' associations;
- imposes strict punishments on violations of laws and regulations; administrative detention is added as penalty, and the limit of administrative penalties is increased;
- bans for life a person once sentenced to a fixed-term imprisonment or more severe penalty due to food safety crimes from engaging in food production and operation; and
- enhances civil liabilities, including consumer compensation, and punitive compensation; strengthens civil liability for persons spreading false food safety information.[88]

3.82. At the time of the last review in 2014 there were six institutions (i.e. 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)) in charge of the SPS system in China. Since then, there have been major changes regarding these institutions, as there was an overlap in functions and thus challenges regarding the enforcement and implementation of policies and specific measures.

3.83. The Ministry of Health and the National Population and Family Planning Commission were replaced by the newly established National Health and Family Planning Commission, which took over the Ministry's functions regarding the formulation of food safety standards and food safety risk assessment. At the same time, the Office of Food Safety Commission of the State Council, the State Food and Drug Administration (SFDA), and the functions of the State Administration for Industry and Commerce (SAIC) regarding SPS measures, were merged, to create the China Food and Drug Administration (Table 3.9). The authorities noted that the new entity took over the functions of the institutions that it absorbed with regard to SPS policies.

Table 3.9 Institutions in charge of the SPS system, 2015

Institution	Responsibility
National Health and Family Planning Commission	Responsible for: supervising and managing public health; evaluating food safety risks; and formulating food safety standards
Ministry of Agriculture (MOA)	Responsible for: supervising the safety and quality of agricultural products; supervising and managing livestock and poultry slaughtering facilities; and implementing entry and exit animal and plant quarantine
General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ)	Responsible for: national quality, entry-exit commodity inspection, entry exit health quarantine, entry-exit animal and plant quarantine, certification and accreditation
China Food and Drug Administration (CFDA)	Responsible for: drafting laws, regulations and departmental rules to formulate policies to oversee food safety (including food additives and health foods), drugs (including traditional Chinese medicines), medical devices, and cosmetics; and supervising safety in food and drug production

Source: Information provided by the Chinese authorities.

3.84. The authorities have noted that the 2015 Food Safety Law did not introduce major changes to the procedures to establish SPS requirements in China. In accordance with the Law on the Entry and Exit Animal and Plant Quarantine, based on a risk analysis and through a joint order issued by the Ministry of Agriculture (MOA) and AQSIQ, China can prohibit the importation of plants or

[88] Food Safety Law (2015). Viewed at: http://www.gov.cn/xinwen/2015-04/25/content_2852919.htm.

animals that originate in countries or regions where there are plant diseases or epidemics. The prohibition may be lifted on the basis of scientific assessment. To this end, the country affected must submit an application to the relevant Chinese authorities once the epidemic is under control. The MOA and AQSIQ will jointly assess the application, and an on-site survey will be undertaken to assess whether measures taken by the affected country are in accordance with a risk analysis based on the principles stipulated by national and international organizations. Thereafter the MOA and AQSIQ solicit comments on the report from the relevant national bodies. China also shares the report with the countries affected by the prohibition to obtain their comments and feedback. If there are disagreements with China's assessment of the country's sanitary conditions, China might request more evidence to re-assess the risk based on the new evidence. Concerns have been raised at the WTO regarding this system.[89]

3.85. The authorities have stated that inspection procedures for imports and exports subject to SPS measures have not undergone substantial changes since 2013. The Catalogue of Entry-Exit Commodities Subject to Inspection and Quarantine lists all imports (and exports) subject to statutory inspection by the entry and exit inspection and quarantine authorities prior to their commercialization (or exit) in (from) China.[90] Regarding imports, in 2015 the Catalogue contained 2,032 tariff lines at the HS 8-digit level, the same number as in 2015. The last amendment to the Catalogue, which took place on 31 December 2014, added one tariff line corresponding to furniture (HS 9401.80.90) and removed one line corresponding to vaccines for veterinary medicine (HS 3002.30) from the list of imports that were subject to inspection and quarantine requirements.[91] In 2015 the number of tariff lines of exportable goods at the HS 8-digit level subject to inspections declined to 1,920 compared to 2,051 in 2013. The goods removed (133 tariff lines at the HS 8-digit level) were mainly motor vehicles and motorcycles.[92] The two lines added corresponded to ferrosilicon (HS7202.21 and HS7202.29). In 2015, as in the case of imports, vaccines for veterinary medicine were removed from the list of exports subject to compulsory inspection but furniture was added.

3.86. At the time of the last review there was an additional catalogue in place, the Catalogue of Import Commodities Subject to Safety and Quality Permits, which stipulated the general standards for goods that are highly sensitive in terms of safety, sanitation and environmental protection.[93] In addition, imports of waste, which can be used as raw materials, must be inspected before loading and prior to entering the Chinese territory to prevent harmful waste from entering China.[94]

3.87. The 2015 Food Safety Law indicates that imported (and exported) food must be subject to the supervision and administration of state entry-exit inspection and quarantine authorities both at the central and sub-central level. In general, imported food, food additives and other food-related products must meet China's national food safety standards; however, if these standards do not exist, the health administrative department of the National Health and Family Planning Commission may, on a temporary basis, apply the standards of a relevant country (or region) or an international standard. Importers (of food, food additives and food-related products) must establish a "review system" for overseas exporters and/or overseas producers. If the imported food fails to meet China's national food safety standards, or may harm human health as proved by

[89] WTO documents G/SPS/R/73, 14 January 2014; and G/SPS/R/78, 21 May 2015.

[90] Catalogue of Entry-Exit Commodities subject to Inspection and Quarantine by the General Administration of Quality Supervision, Inspection and Quarantine, P.R. China (AQSIQ). 2015 Changes to the Catalogue. Viewed at: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjgg/2014/201501/t20150106_429636.htm; 2014 Changes to the Catalogue. Viewed at: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjgg/2014/201406/t20140610_414823.htm; 2013 Changes to the Catalogue. Viewed at: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/lhgg/201308/t20130801_370419.htm .

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

[92] The lines removed were: 89 tariff lines related to motor vehicles and motorcycles (HS Chapter 87); 15 tariff lines related to electronic kitchen equipment (HS Chapter 85); 12 lines related to refrigerators, freezers and equipment thereof (HS Chapter 84); and the rest of the lines related to table, kitchen or other household articles made of aluminium, ceramic, paper, plastic or steel.

[93] Entry and Exit Quarantine Inspection information. Viewed at: http://english.dg.gov.cn/Entry%20&%20Exit%20Quarantine%20Inspection%20Administration.htm

[94] Annex 2 of the Announcement on Amending Catalogues of Imported Wastes Management, MEP MOFCOM NDRC GACC AQSIQ Joint Announcement [2014] No. 80. Viewed at: http://www.zhb.gov.cn/gkml/hbb/bgg/201412/W020141231557140614407.pdf.

"evidence", the importer concerned will be prohibited from continuing to import the product and all imports of the concerned products must be recalled.

3.88. Imported pre-packaged food or food additives require a label and an instruction manual (if it applies) in Chinese. Such labels and instruction manuals must specify the origin of the product; and the name, address and contact details of the domestic agent importing the food. In addition, importers must establish a food and food additives import and sales record system to record, *inter alia*: the name of the product, its specifications, quantity, date of production, and production and import batch number; the shelf life of the product and food additives; and the name, address and contact details of the exporter.

3.89. In 2012, Members raised concerns regarding the registration requirements for foreign companies importing food into China.[95] This issue has been reiterated on several occasions. At the time of the last Review, the authorities indicated that these measures were based on WTO rules. As a result of the 2015 Food Safety Law, the requirements for foreign companies importing food into China have changed. Exporters or agents (foreign enterprises) that export food into China and importers (Chinese enterprises) that import food must apply to the state entry-exit inspection and quarantine authority (through record-filing). Overseas enterprises that produce food and/or export food into China must be registered by the state entry-exit inspection and quarantine authority. To apply for registration, enterprises must be recommended to the CNCA via a competent authority of the countries (regions) where such enterprises are located or in other "prescribed manner". If a registered overseas food production enterprise has provided false material or if the imported food has been the object of a major food safety issue, the state entry-exit inspection and quarantine authority will cancel the registration of the enterprise and make a public announcement.

3.90. Foreign enterprises that manufacture, import, process and store food must be registered with the CNCA before their food products are imported into China.[96] In addition, the 2015 Food Safety Law in its Articles 74-83 stipulates special regulations for certain food or food-related products (e.g. supplements[97], "formula food for special medicinal purposes"[98]; and infant and follow-up formula and other special foods), which are subject to strict supervision and administration. Enterprises producing these products must fulfil special registration and/or record-filing formalities, establish a production quality management system, and submit a "self-inspection" report to the food and drug administration of the local government. Registration and record-filing formalities vary according to the product.

3.91. China's national enquiry point for SPS continues to be the AQSIQ.[99] Between 2013 and January 2016, China made some 417 notifications regarding adopted SPS measures or measures that they were to adopt. Most of the measures notified are not based on international standards. Three of the notifications were related to emergency measures: two were put in place on grounds of plant protection and imposed import prohibitions on seeds, logs and timber from certain territories, and the third notification relates to adjusting the requirements on wood packaging materials used by consignments in international trade to conform to international standards.[100] According to the information provided by the authorities, some 130 measures have been implemented or will be implemented during 2016. Most of the measures implemented relate to food additives. During 2014-2015, Members raised several specific concerns regarding measures imposed by China on sanitary grounds. These measures included: China's measures on bovine meat[101]; the Chinese import regime, including quarantine and testing procedures for fish; China's

[95] WTO documents G/SPS/R/64, 17 January 2012; and G/SPS/R/66, 23 May 2012.

[96] AQSIQ Decree [2012] No. 145, Provisions for the Administration of the Registration of Overseas Manufacturers of Imported Food. Viewed at: http://www.chinatt315.org.cn/qwfb/2012-3/31/39530.aspx; and the latest Catalogue of Registration of Foreign Manufacturers of Imported Foods. Viewed at: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjgg/2013/201305/t20130503_355293.htm (in Chinese only) and https://cdn.chemlinked.com/file/OtherNews/The_Implementation_Catalogue.pdf.

[97] Importers of supplements imported for the first time must register with the CFDA. Importers of vitamins or minerals do not require registration just record-filing.

[98] For a definition please refer to National Standard GB 29922—2013. Viewed at: http://www.lndoh.gov.cn/zxfw/bjcx/spaqbz/201405/P020140514421230724630.pdf.

[99] Information available in the SPS Information Management System: http://spsims.wto.org/web/pages/settings/country/Settings.aspx.

[100] WTO documents G/SPS/N/CHN/601, 27 March 2013; G/SPS/N/CHN/632, 29 November 2013; and G/SPS/N/CHN/686, 4 November 2014.

[101] WTO document G/SPS/R/78, 21 May 2015.

import restrictions due to African swine fever; and China's proposed amendments to the implementation regulations on the safety assessment of agricultural GMOs.[102]

3.2 Measures Directly Affecting Exports

3.2.1 Export procedures and requirements

3.92. Exporters must register with Customs before making customs declarations. These can be done either by a natural person or by a customs declaration enterprise once goods arrive at the customs surveillance zone.[103] The declaration must be made at least 24 hours prior to loading, otherwise an overdue declaration fee is charged.

3.93. Exporters must comply with the requirements stipulated in the Catalogue of Import and Export Commodities Subject to Compulsory Inspection[104], which is amended every year to add or subtract commodities as required for the protection of human and animal health, the environment, and national security, and to promote steady export growth and adjust the export structure.[105] The last amendment, which took place on 31 December 2014, deleted one tariff line at the HS 10-digit level from the list of export items subject to inspection and quarantine requirements and added another item (children's car seats – HS 9401.80.90.91).[106] Some items, such as dangerous chemicals, fireworks, lighters, toys and strollers, food products, and rare earths, are still subject to export inspection.[107] Exports must be inspected where they are produced. The packaging of exports of dangerous chemicals and other dangerous goods must also undergo inspection and tests.[108]

3.94. Under the Reform of Classified Customs Clearance, initiated in 2009 and adopted by all customs offices to facilitate export procedures, enterprises were classified into different groups based on risk analysis.[109] Customs inspection and supervision depended upon the enterprise's rating. Goods exported by high-risk enterprises were inspected while other exports were released through fast-track clearance or a "low-risk examination".[110] In 2015, the enterprise classification system was amended, and enterprises are now categorized according to their credit rating into: authorized enterprises (former AA and A), enterprises of general integrity (former category B), and dishonest enterprises.[111] The Reform of Paperless Customs Clearance, which was initiated in 2012 as a pilot programme, was extended to the rest of the country in 2014. After implementation of this Reform, enterprises only need to submit declaration forms and any other accompanying documents in electronic format, to clear customs procedures.[112]

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[102] WTO document G/SPS/R/79, 4 September 2015.

[103] The Provisions of the Customs Administration of Declarations for the Import and Export of Goods (GACC Decree No. 218). Viewed at: http://www.customs.gov.cn/publish/portal0/tab49564/info701048.htm (in Chinese only).

[104] The authorities have stated that this Catalogue is now called Catalogue of Entry-Exit Commodities Inspected and Quarantined by Entry-Exit Inspection and Quarantine Organs.

[105] Central People's Government online information. Viewed at: http://www.gov.cn/jrzg/2013-08/01/content_2459772.htm.

[106] GACC and AQSIQ [2014] Announcement No. 146. Viewed at: http://www.aqsiq.gov.cn/xxgk_13386/jlgg_12538/zjgg/2014/201501/t20150106_429636.htm (in Chinese only).

[107] Central People's Government online information. Viewed at: http://www.gov.cn/jrzg/2013-08/01/content_2459772.htm.

[108] Central People's Government online information. Viewed at: http://www.gov.cn/jrzg/2013-08/01/content_2459772.htm.

[109] GACC Announcement [2010] No. 56. Viewed at: http://www.customs.gov.cn/publish/portal0/tab399/info237228.htm (in Chinese only).

[110] GACC Announcement [2009] No. 33. Viewed at: http://www.customs.gov.cn/publish/portal0/tab1/info174780.htm (in Chinese only); and more information concerning classified customs clearance can be viewed at: http://www.gov.cn/gzdt/2012-07/04/content_2176701.htm (in Chinese only).

[111] GACC Announcement [2015] No. 31, Decision of Classification of Goods. Viewed at: http://www.customs.gov.cn/publish/portal0/tab49659/info761279.htm (in Chinese only).

[112] GACC Decree [2014] No. 25, Announcement on Further Promoting Paperless Customs Clearance. Viewed at: http://www.customs.gov.cn/publish/portal0/tab49564/info702038.htm (in Chinese only).

3.2.2 Export taxes, charges, and levies

3.95. China continues to apply export taxes in accordance with the Regulations on Import and Export Tariffs.[113] The list of goods subject to "statutory" and interim export duties is issued on a yearly basis. Exports subject to statutory duties can also be subject to an interim duty, usually at a lower rate.[114] Exports subject to interim duties may also be charged a special export duty, which is applied according to the season and may be substantially higher than interim duty rates. Export duties are *ad valorem*, specific or they may take other forms as prescribed by the State; in practice, most of them are *ad valorem*.

3.96. Export duties are payable on the date when Customs accepts the export declaration; they are calculated based on the transaction value of exports, and transport and insurance cost.[115] Certain items are exempt from export duties.[116] Duty reductions or exemptions may also be granted under specific circumstances.[117]

3.97. Between 2013 and 2015 (May), 4.1% of all tariff lines at the HS 8-digit level were subject to export duties (including both statutory and interim duties) (4.2% in 2013) (Table 3.10). Neither the goods subject to the statutory export duty nor the duty rates changed during that period.[118] As was the case in 2013, in 2015 (May), goods subject to statutory export duties usually faced higher rates than those subject to interim export duties. The exception to this, are three tariff lines related to 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 3.10 Export duty types of by HS Chapter, 2015 (May)

HS Chapters	Statutory duties		Interim duties	
	No. of lines	Range %	No. of lines	Range %
Total	102	20-50	314	0-35
03 Fish and crustaceans	1	20	0	n.a.
05 Products of animal origin, n.e.s.	4 (1)	40	1	0
25 Earths and stone; plastering materials	0	n.a.	21	5-35
26 Ores, slag and ash	7 (2)	20-50	32	0-20
27 Mineral fuels, oil and waxes	0	n.a.	11	3-15
28 Inorganic chemicals	3 (1)	20-30	78	5-25
29 Organic chemicals	1 (1)	40	1	0
31 Fertilizers	0	n.a.	17	5-30
38 Misc. chemical products	0	n.a.	1	10
41 Raw hides and skins	2	20	0	n.a.
44 Wood and articles of wood	0	n.a.	6	10-15
47 Pulp of wood, paper or paperboard	0	n.a.	16	10
72 Iron and steel	17 (5)	20-40	48	10-25
74 Copper and articles thereof	32 (32)	30	34	0-15
75 Nickel and articles thereof	4 (4)	40	5	5-15
76 Aluminium and articles thereof	24 (24)	20-30	24	0-15

[113] The Regulations on Import and Export Duties of 1 January 2003. Viewed at: http://english.mofcom.gov.cn/aarticle/policyrelease/internationalpolicy/200705/20070504715851.html (in English).

[114] Where exports are subject to both a statutory and an interim export duty, the interim duty applies.

[115] GACC Decree [2006] No. 148, The Measures of Customs for Assessing and Determining Duty-Paid Value of Imported and Exported Goods as amended by GACC Decree [2013] No. 213. Viewed at http://www.customs.gov.cn/publish/portal0/tab49660/info688746.htm (in Chinese only).

[116] These are: imported goods that are exported from the Customs territory within one year of the date of importation 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; donated material; and fuels, stores, beverages and provisions to be used *en route* by vessels which are in transit in China (Regulations on Import and Export Tariffs).

[117] For instance: 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 and materials donated for public welfare use; and low-volume border transactions.

[118] 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).

HS Chapters	Statutory duties		Interim duties	
	No. of lines	Range %	No. of lines	Range %
78 Lead and articles thereof	0	n.a.	2	10
79 Zinc and articles thereof	4 (4)	20	4	0-15
80 Tin and articles thereof	0	n.a.	2	10
81 Other base metals	3 (1)	20	11	5-15

n.a. Not applicable.

Note: Figures in brackets under the column "statutory duties" refer to the number of tariff lines subject to both a statutory and an interim export duty rate. Lines where exports duty is only partially applied are included.

Source: Customs Tariff of Import and Export of the People's Republic of China, 2015.

3.98. China is the world's leading exporter of some of the products to which it applies export taxes. The application of export taxes could affect the amount exported and their price in the world market.[119] The highest export tax rate (50%) applies to tin ores and concentrates (HS 2609). In 2014, China did not export any of these products.

3.99. During the period under review there were two important changes regarding the imposition of export duties. First, in May 2015 interim export duties were removed for items included in 91 tariff lines at the HS 8-digit level; however, statutory export rates remain in place for all these items. Interim export duties were removed on chemical elements (e.g. rare earths, ores and concentrates of rare earths, and compounds of rare earth metals); certain iron and steel articles; tungsten; and molybdenum.[120] Second, the special export duty rate of 75%, which applied mainly to fertilizers, was eliminated.[121] There were no other major changes regarding the range of goods subject to interim duties or the rates of the duties charged during the 2013-15 period.

3.100. As of May 2015, interim duties were levied on 314 tariff lines at the HS 8-digit level, compared to 320 in 2013, ranging from 0% to 35%, with the highest rates applying to products classified under HS Chapter 25. The slight decline in the number of tariff lines subject to interim export duties was a result of a reduction in the number of lines subject to duties of inorganic chemicals (HS Chapter 28) and fertilizers (HS Chapter 31). Since 2013, export duty rates on eight tariff lines related to mineral fuels, oil and waxes (Chapter 27) were lowered from 10% to 3%; while the minimum rate levied on fertilizers was lowered from 25% to 5%.[122] The 2015 Customs Tariff shows that in 2015 eight products were subject to specific interim export duties.[123] However, according to the authorities these were eliminated in 2014.

3.101. VAT on exports is 0%, with the exception of VAT on exports of restricted goods.[124]

3.2.3 Export prohibitions, restrictions, and licensing

3.102. As in the case of imports, the State may restrict or forbid exports 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"; organize "export business management"; comply with China's international commitments; or under any other circumstance as provided for in any law or administrative regulation.

[119] In 2014, China's exports of rare-earth metals, scandium and yttrium, whether or not intermixed or interalloyed (HS 2805.30), accounted for 52% (62% 2012) of total world exports (United Nations Statistics Division (UNSD), Comtrade database).

[120] Shui Wei Hui [2015] No. 3, Customs Tariff Commission of the State Council, Circular on Adjusting Export Duties of Some Products. Viewed at: http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201504/t20150423_1221830.html. .

[121] 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.

[122] The eight tariff lines were related to coal/lignite/peat (HS 2701-2703).

[123] These products were: phosphoric acid (HS 2809.20.19), anhydrous ammonia (RMB 180/tonne) (HS 2814.10.00), ammonia in aqueous solution (RMB 60/tonne) (HS 2814.20.00), urea (RMB 80/tonne) (HS 3102.10.00), potassium chloride (RMB 600/tonne) (HS 3104.20.90), potassium sulphate (RMB 600/tonne) (HS 3104.30.00), diammonium hydrogenorthophosphate (RMB 100/tonne) (HS 3105.30.00), and ammonium dihydrogenorthophosphate and mixtures thereof (RMB 100/tonne) (HS 3105.40.00).

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

3.103. MOFCOM, in collaboration with other relevant departments, formulates and issues a Catalogue of Goods Restricted or Forbidden for Export; this Catalogue was last updated in 2008.[125] Reflecting this, the products subject to export prohibitions remained unchanged since 2013. Export prohibitions apply to products such as: bezoar, musk, black moss, certain plants, bones, ivory, natural sands (HS Chapter 25) asbestos, halogenated derivatives of hydrocarbons, organic chemicals (HS Chapter 29), fertilizers (not chemically treated); unprocessed wood and some platinum products.[126]

3.104. China's Foreign Trade Law also distinguishes between goods that may be freely exported and those that may be restricted. Restricted exports may be subject to quotas and/or licences. China imposes global and destination-specific export quotas. The list of products subject to quotas and the quota volumes for the following year is published on 31 October of each year.[127] As information provided by the authorities shows, in 2013, global export quotas applied to 193 tariff lines at HS 8-digit level. On 1 January 2015 China removed the export quotas on rare earth, tungsten and tungsten products, as well as on molybdenum; these products are at present subject to export licensing.[128]

3.105. Goods that are freely exported may be subject to automatic export licensing for monitoring purposes, while goods that are subject to restriction are subject to non-automatic export licences. MOFCOM issues on a yearly basis the Catalogue of Goods Subject to the Administration of Export Licences.[129] The Catalogue lists goods that are subject to export quota (licences), export quota bidding (licences), and to general export licensing (Table 3.11). For exports subject to a quota, the exporter needs to obtain quota access prior to applying for a licence. The additional requirement of obtaining an export permit, which was compulsory prior to requesting the export licence, was removed for certain products (i.e. rare earths, tungsten and molybdenum). In addition, to "maintain foreign trade order", export declarations of certain products subject to export licensing (e.g. liquorice, some types of magnesia products, rare earths, antimony and antimony products, and natural sands), when exported to Chinese Taipei; Hong Kong, China; and Macao, China, may be cleared only through designated ports.[130]

Table 3.11 Products subject to export quotas and licensing, 2015-16

Products	Type of management	Comment
Goods subject to quota and licensing		
Rice, maize, wheat, cotton, coal	Export quota (licensing)	The quota is allocated by the NDRC The licence is issued by MOFCOM
Wheat flour; maize flour; rice flour; sawn lumber; live cattle, swine and chicken (for export to Hong Kong, China and Macao, China); live pigs (to Hong Kong, China and Macao, China); crude oil; refined oil; antimony and antimony products; tin and tin products; silver; indium and indium products; and phosphate rock	Export quota (licensing)	The quota is allocated by MOFCOM
Mat rush and mat rush products, talcum lump (powder), magnesia, liquorice and liquorice products	Export quota bidding (licensing)	The quota is allocated by MOFCOM

[125] GACC Announcement [2008] No. 96. Viewed at: http://www.mofcom.gov.cn/aarticle/b/c/200812/20081205948343.html (in Chinese only).
[126] WTO documents G/MA/QR/N/CHN/2 and G/MA/QR/N/CHN/3, 24 April 2015.
[127] For more details on the management of the export quotas, refer to Articles 38-41 of the Regulation on the Administration of the Import and Export of Goods.
[128] MOFCOM GACC Joint Announcement [2014] No. 94. Viewed at: http://www.mofcom.gov.cn/article/h/zongzhi/201501/20150100856075.shtml (in Chinese only).
[129] MOFCOM GACC Joint Announcement [2014] No. 94.
[130] For instance, the designated ports to clear export declarations for rare earths are Tianjin Customs, Shanghai Customs, Qingdao Customs, Huangpu Customs, Customs Hohhot, Nanchang Customs, Ningbo Customs, Nanjing and Xiamen Customs.

Products	Type of management	Comment
Goods subject to licensing		
Live cattle, swine and chicken (for markets other than Hong Kong and Macao SARs); fresh chilled beef, pork and chicken; frozen beef, pork, and chicken; bauxite; rare earth; paraffin; tungsten; carborundum; platinum (for processing trade); some metals and metal products; molybdenum and molybdenum products; natural sand (including natural sand); oil products (oil, grease, lube base oil); citric acid; penicillin industrial salt; vitamin C; sulfuric acid; disodium sulphate; motorcycles (including all-terrain vehicles) and their engines and frames; and motor vehicles (including completely knock-down kits) and their chassis	Export licence	A licence is granted to the exporter who has signed the relevant export contract
Substances depleting the ozone layer, and alumina, coke, tungsten products, silicon carbide, manganese, and fluorite	Export licence	An export permit is required before applying for a licence

Source: MOFCOM GACC Joint Announcement No. 76 of 2015. Viewed at: http://wms.mofcom.gov.cn/article/zcfb/g/201512/20151201225345.shtml (in Chinese only); and information provided by the Chinese authorities.

3.106. In addition to the list of goods subject to export licences under general trade, the Catalogue of Goods Subject to the Administration of Export Licences also lists those export licences that apply to border trade. In 2015, there were 48 categories of goods subject to export licensing under general trade. The number of tariff lines at the HS 8-digit level subject to export licensing in 2015 was 450 (unchanged since 2013).

3.2.4 Export support and promotion

3.107. The most recent notification to the WTO regarding export subsidies, in which China indicated that it did not maintain nor had it, introduced any export subsidies on agricultural products, covers the year 2012.[131] No information was provided on this matter for the period under review.

3.108. Exporters are entitled to VAT rebates on all exported goods. The rebate rates vary according to the product. Rebate rates are usually lower than the VAT paid. At present, the rebate rates are: 17%, 15%, 13%, 9%, 5% and 0% (Chart 3.3).[132] The two most common rebate rates are 17%, which applies to some 29% of all tariff lines, and 0%, which applies to 22% of lines. Certain goods are not eligible for a rebate.[133] In terms of the value of exports, over 70% of the exported goods are subject to 17% and 15% rebate rates. Fruits and nuts are generally subject to the rebate rate of 5%, while endangered animals and plants may not benefit from any rebate.

3.109. The management of the VAT rebate is used to meet certain goals. The authorities have noted that it accommodates the request for environmental protection, energy saving and emission reduction. They noted that the rebate is used to discourage the production and export of environmental polluting products. Rebate rates may be reviewed and changed as considered appropriate. For example, in 2014, the VAT rebate rates were increased for some high-value-added products, processed maize products and textile and garments; while it was lowered for wigs (HS 6704) and eliminated for boron steel products (HS 7225.40.91).

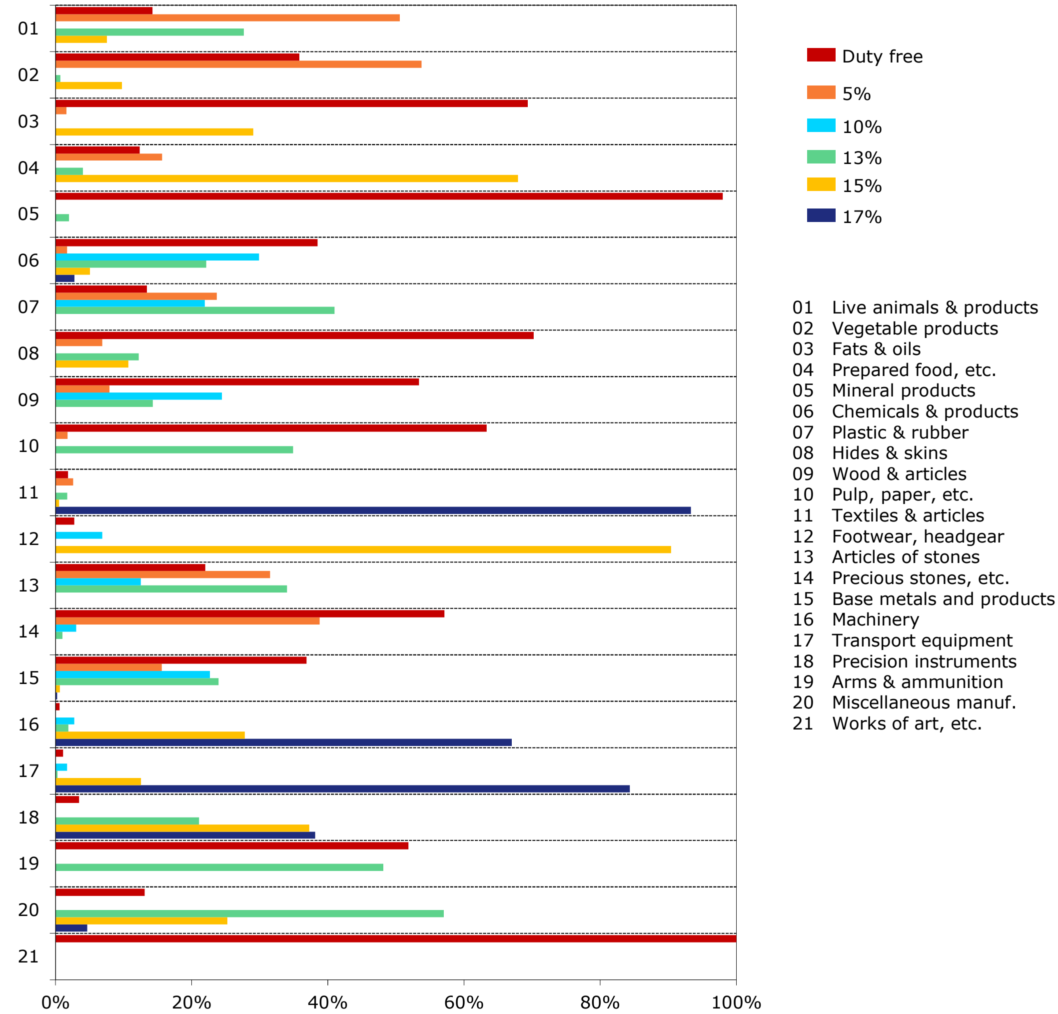
3.110. The authorities were unable to provide any other information regarding export support.

[131] WTO document G/AG/N/CHN/27, 7 March 2014.

[132] SAT online information. Viewed at: http://hd.chinatax.gov.cn/fagui/action/InitChukou.do; and Cai Shui [2014] No. 150, MOFCOM and SAT, the Circular on Adjusting the Export Rebate Rates for Certain Products. Viewed at: http://www.mof.gov.cn/zhengwuxinxi/zhengcefabu/201412/t20141231_1175119.htm (in Chinese only).

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

Chart 3.3 Distribution of export rebate rates, by HS section, 2015



Source: WTO Secretariat calculations, based on online information from the State Administration of Taxation (SAT). Viewed at: http://hd.chinatax.gov.cn/fagui/action/InitChukou.do.

3.2.5 Export finance, insurance, and guarantees

3.111. Export finance, insurance, and guarantees are granted by at least two institutions: the China Export-Import Bank (China Eximbank), which provides export finance; and the China Export and Credit Insurance Corporation (SINOSURE), which provides export credit insurance and related guarantees.

3.112. China Eximbank's mandate is to provide support for the importation and exportation of capital goods and services. It also provides export financing services in areas where social and commercial capital are unwilling to enter, and provides financing for Chinese companies to undertake overseas construction and investment projects. China Eximbank provides export buyers' credit and export sellers' credit. Export buyers' credit consists of loans extended in RMB or foreign currencies to overseas borrowers, while export sellers' credit consists of loans granted in RMB or foreign currencies to domestic enterprises when exporting vessels, equipment, electromechanical products, agricultural products, cultural products and services. The authorities noted that loans are granted at commercial interest rates. Eximbank also has special lines of credit and different financial instruments for SMEs. The Bank provides two preferential facilities used as Chinese government official development aid to developing countries, namely: government concessional loans and preferential export buyers' credit. Eximbank is the only bank designated by the Chinese Government to implement such facilities.[134]

3.113. Eximbank's operations and activities have developed rapidly over the 2010-2014 period. Export sellers' credit disbursements increased every year between 2010 and 2013 to reach RMB 192.4 billion (Chart 3.4). However, they declined to RMB 178.6 billion in 2014.

3.114. The main beneficiary industries of Eximbank's credit in 2014 were: hi-tech products (29.9% of the total), vessel exports (19.8), overseas investment projects (15.2%), general electromechanical products (10.6%), overseas construction projects (8%), and machinery and equipment (6.7%).[135] Export buyers' credit increased steadily from 2012 to 2014 when the total amount of disbursements stood at RMB 59.4 billion. The amount of credit disbursed by Eximbank to finance imports has increased steadily between 2010 and 2014, reaching RMB 194.9 billion.

3.115. China's official export credit insurance agency is the state-owned China Export and Credit Insurance Corporation (SINOSURE), which 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. SINOSURE focuses on the promotion of Chinese exports of goods, technologies and services, especially high-tech and high value-added capital goods, and on assisting national enterprises to invest overseas, by providing insurance against non-payment risks.[136]

3.116. SINOSURE offers short-, medium- and long-term export credit insurance, as well as, overseas investment insurance. There are several kinds of short-term export credit insurance, of a maximum term of two years: a) the letter of credit (L/C) insurance policy, which covers both commercial and political risk; b) the specific buyer's or specific contract insurance policies, which cover in addition risks originated by measures decreed by the government of the buyer's country/region, such as the imposition of restrictions or prohibitions on imports and/or the cancellation or non-renewal of an import licence; c) the insurance policy against buyer's breach of contract, which covers the policyholder from the risk of loss of payment both pre-shipment and post-shipment; and d) the comprehensive cover insurance, which covers receivable risks of export enterprises on payments made both by L/C and non-L/C means.[137]

3.117. Among the medium- and long-term insurance instruments, the Buyer Credit Insurance Programme insures against the default of payments by the borrower or guarantor under the credit agreement due to certain political and commercial risks.[138] Chinese financial institutions are eligible for the programme, as well as foreign financial institutions with branches in China; they must have total assets of no less than US$10 billion and a good cooperation record with export credit agencies. The credit period is of between 2 and 15 years. Similar conditions apply for the Supplier's Credit Insurance Programme, which insures against the bankruptcy or default of importers.

3.118. The Overseas Investment Insurance scheme is designed to encourage investment abroad by Chinese enterprises and financial organizations by underwriting an investor's potential economic losses in overseas investment caused by political risks in the host country. It consists of equity insurance and liability insurance. Direct investments are eligible to benefit from the scheme, which provides insurance against loss of capital and realized earnings or loss of capital and accrued interests directly caused by the insured risks. The insured risks are expropriation, restrictions on transfers and currency conversion, damage or inability to operate due to war, and breach of undertaking.

[134] China Eximbank online information. Viewed at: http://english.eximbank.gov.cn/tm/en-TCN/index_640.html.
[135] Financial Report of the Export-Import Bank of China (2014). Viewed at: http://www.eximbank.gov.cn/tm/report/index_27_27419.html.
[136] SINOSURE online information. Viewed at: http://www.sinosure.com.cn/sinosure/english/news_events/114266.html.
[137] SINOSURE online information. Viewed at: http://www.sinosure.com.cn/sinosure/english/products_short.htm.
[138] SINOSURE online information.

Chart 3.4 Eximbank operations, 2010-14

Source: The Export-Import Bank of China online information.

3.119. By the end of 2015, SINOSURE had supported export, domestic trade and investment with a total value of US$2,401.73 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. Also by end-2015, SINOSURE had facilitated the lending of RMB 2.4 trillion by banks.

3.3 Measures Affecting Production and Trade

3.3.1 Incentives

3.120. During the period under review, China continued to provide a number of incentives to different sectors or industries. Some of these schemes are geared at, *inter alia*, upgrading production methods in industries that use obsolete technologies; promoting development in remote areas and narrowing the income gap between regions[139]; and attracting FDI (Section 2).[140] Support also continues to be granted to, *inter alia*, specific strategic industries with the purpose of promoting innovation, upgrading industries, and protecting the environment and promoting green development, as well as to agriculture (Section 4). In general, support is granted through tax preferences, direct transfers, and access to credit (Table A3.2).

3.121. In 2015, China submitted a notification to the Committee on Subsidies and Countervailing Measures regarding its support programmes maintained at the Central Level covering the 2009-14 period.[141] The notification contains 86 programmes, of which 30 had not been notified to the WTO previously (Table 3.12).

3.122. The new notification does not include one programme, previously notified to the WTO, which appears to be in force.[142] No information was supplied to the Secretariat regarding support measures at the sub-central level. However, the authorities noted that they are preparing a notification of programmes maintained at the sub-central level.[143]

3.123. The programmes listed in the notification included incentives provided to: Foreign-Invested Enterprises (FIE) (Section 2); Special Economic Zones; less developed regions; small and medium enterprises (SMEs); specific industries (i.e. energy and Strategic Emerging Industries); and agriculture. Agriculture continues to be supported to guarantee farmers' income, protect the sector, develop rural areas, and ensure food security (Section 4). According to the authorities, China is in the process of "improving" its agricultural subsidy policy.[144]

3.124. As stated at the time of the last Review in 2014, in addition to the programmes notified by China, there are other support programmes and other means to support different industries.[145] However, no information was provided in the context of this Review regarding these specific programmes or China's industrial policies. The identification of these programmes remains difficult, as there is no information published in English and no itemized central budget (to help identify outlays) was provided for the Review.

3.125. General policies, as well as industries and activities identified as priorities, are outlined in the Central Government Five-Year Plans. For instance, the 12th Five-Year Plan (2011-2015) called 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 industries (SEIs).[146] However, the Plan does not outline specific measures. Moreover, support policies, such as those for SEIs, are stated by the Central and provincial governments in legal documents, usually an

[139] The incentives granted to industries established in the Mid-Western Regions are listed in the Catalogue of Priority Industries for Foreign Investment in the Mid-Western Regions (NDRC-MOFCOM Decree [2013] No. 1. Viewed at: http://www.sdpc.gov.cn/zcfb/zcfbl/201305/t20130516_541505.html (in Chinese only)).

[140] For more details on FDI incentives refer to WTO (2014), *Trade Policy Review – China*, Geneva.

[141] WTO document G/SCM/N/220/CHN, G/SCM/N/253/CHN, G/SCM/N/284/CHN, 30 October 2015.

[142] The programme is called the Preferential tax policies for the relief of grain producers and disaster relief for grain producers, compensation to grain producers for returning cultivated land to forests and to grassland, and grain rations for migrants from the reservoir areas.

[143] For incentives to attract foreign direct investment at the provincial level, please refer to Table A3.5 of the 2014 Secretariat TPR report (WTO (2014), *Trade Policy Review – China*, Geneva).

[144] CPC Recommendations on Formulating the 13th Five-Year Plan for National Economic and Social Development. Viewed at: http://cpc.people.com.cn/n/2015/1103/c399243-27772351-3.html.

[145] For more details on the specific programmes, see WTO (2014), *Trade Policy Review – China*, Geneva.

[146] The key manufacturing industries listed in the 12th Five-Year Plan are: equipment, shipbuilding, automobiles, iron and steel, non-ferrous metals, building materials, petrochemicals, light industry and textiles. The strategic emerging industries mentioned in the Plan are: energy conservation and environmental protection; new-generation IT; biological products; high-end equipment manufacturing; new energy (development of new-generation nuclear energy and solar utilization, photovoltaic and photo-thermal power generation, and intelligent power grids and biomass energy); new materials; and new-energy automobiles.

administrative regulation or a local government rule. Thereafter, the governments at the city or county levels may promulgate more detailed rules to implement the measures. According to the Recommendations on Developing the 13th Five-Year Plan, China will continue to encourage the development of SEIs through the design of appropriate industrial policies, which should promote their competitiveness, and through the guidance of investment towards these emerging industries.[147] However details of the specific measures are as yet unknown.

Table 3.12 New support programmes notified to the WTO in 2015

Programme	Forms of subsidy	Period / Validity[a]
Preferential VAT on comprehensively utilized products with agricultural surplus and forestry residues as raw materials	Preferential taxation	In effect
Preferential consumption tax on comprehensively utilized and produced petroleum products	Preferential taxation	In effect
Preferential VAT on electrical products produced by photovoltaic-generated power	Preferential taxation	1.10.2013 to 31.12.2015
Preferential VAT on hydropower products	Preferential taxation	1.1.2013 to 31.12.2017
Preferential tax treatment for energy-saving and new energy vehicles and vessels	Preferential taxation	In effect
Preferential tax treatment for the public buses and trolleybuses purchased by urban public transportation enterprises	Preferential taxation	From 1.1.2012 to 31.12.2015
Preferential vehicle purchase tax on low-emission cars	Preferential taxation	20.1.2009 to 31.12.2009; 1.1.2010 to 31.12.2010
Preferential income tax policies for enterprises that employ disabled people	Preferential taxation	In effect
Special fund for the development of international economy and trade	Financial appropriations	In effect
Fund for disaster prevention and relief in agricultural production	Financial appropriations	In effect
Preferential tax treatment to import of equipment	Preferential taxation	In effect
Preferential consumption tax on refined oil	Preferential taxation	In effect
Subsidy fund for Jintaiyang (Golden Sun) Demonstration Project	Financial appropriations	2009-2012
Subsidy fund for energy-oriented utilization of straw	Financial appropriations	November 2008 to 2013
Subsidy fund for bio-energy and biochemical raw materials bases	Financial appropriations	In effect
Incentive fund for non-grain produced bio-energy and biochemical industry	Financial appropriations	In effect
Incentive fund for transformation of energy-saving technology	Financial appropriations	2007-2013
Promotion fund for efficient lighting products	Financial appropriations	December 2007 to 2014
Subsidy fund for the promotion of energy-saving products	Financial appropriations	In effect
Subsidy fund for renewable energy-saving building materials	Financial appropriations	In effect
Special fund for energy conservation and emission reduction of communication and transportation	Financial appropriations	2011 to 31 December 2018
Subsidy fund for ship-type standardization of the main line of the Yangtze River	Financial appropriations	1.10.2009 to 31.12. 2013
Subsidy fund for ship-type standardization of in-land river	Financial appropriations	1.10.2013 to 31.12.2015
Special fund for the development of circular economy	Financial appropriations	In effect
Subsidy fund granted by the central finance to close small enterprises	Financial appropriations	September 2010 to 2014
Special fund for the development of strategic emerging industry	Financial appropriations	December 2012 to the present
Subsidy fund for producing goods specially needed by the ethnic minorities	Financial appropriations	In effect
Subsidy for household electric appliances	Financial appropriations	1.6.2010 to 31.12. 2011
Subsidy for the sales of household electric appliances in rural areas	Financial appropriations	1.2.2009 to 31.1.2013
Subsidy for the sales of automobiles and motorcycles in rural areas	Financial appropriations	1.3.2009 to 31.12.2009; 1.2.2009 to 31.1.2013

a Based on information provided by the authorities of China.

Source: WTO Secretariat based on document G/SCM/N/220/CHN, G/SCM/N/253/CHN, G/SCM/N/284/CHN, 30 October 2015; and information provided by the authorities of China.

3.126. 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 3.13). Although the sectoral five-year plans and the provincial plans set policy guidelines and establish industrial policies, they 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. For instance, the 12th Five-Year Plan mentions "the innovative development project in SEIs", but Ministerial Departments of the State Council and sub-central governments have also issued catalogues concerning SEIs, which give more details regarding the industries that can be defined

[147] CPC Recommendations on Formulating the 13th Five-Year Plan, 29 October 2015. Viewed at: http://cpc.people.com.cn/n/2015/1103/c399243-27772351-3.html.

as SEIs.[148] However, it is not always clear how the different catalogues interact, as they may sometimes overlap and even conflict, reflecting the different agendas at the different levels.

Table 3.13 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/n810341/n810755/c1225570/content.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/201305/t20130516_541505.html
Catalogue of Encouraged Technology and Product Imports (2015)	Jointly issued by the NDRC, Ministry of Finance, and Ministry of Commerce on 6 July 2015. Viewed at: http://www.mofcom.gov.cn/article/difang/201508/20150801074747.shtml
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). Viewed at: http://www.mof.gov.cn/mofhome/gp/shuizhengsi/200809/t20080924_77975.html
Catalogue of Chinese High-Tech Products for Export (2006)	On the issuance of Chinese High-Tech Products Catalogue 2009 "Notice" No. 61 of 2009 by the Ministry of Science. Viewed at: http://www.most.gov.cn/tztg/200910/t20091009_73551.htm
Catalogue for the Guidance of Foreign Investment Industries	Directory (2015 Amendment) Foreign Investment Industrial Guidance, National Development and Reform Commission and MOFCOM, Order No. 22, 10 March 2015. Viewed at: http://www.sdpc.gov.cn/zcfb/zcfbl/201503/t20150313_667332.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
Catalogue of Imported Major Technical Equipment and Products not Eligible for Tax Exemption	Cai Guan Shui [2014] No. 2. Viewed at http://www.gov.cn/gzdt/2014-02/28/content_2625354.htm (in Chinese only)
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

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

3.127. The People's Bank of China (PBC) continues to guide financial institutions to increase financial support to important areas of the economy and disadvantaged sectors, and to extend credit to key sectors and emerging industries, such as railways, clean energy and environmental protection. Since 2014, a new category of "credit policy supporting central bank loans" was introduced, which included agriculture-supporting loans and SME-supporting loans. Financial institutions were encouraged to use flexible credit products so as to enhance support for imports and domestic consumption. In 2014-2015, financial institutions were guided to increase "green" credit. The PBC, in its 2014 Annual Report stated that, in that year guided credit and the improvement of financial services had been instrumental in promoting regional development.[149]

3.128. China provides industry-specific support 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.[150] However, according to the authorities, this Plan is intended to promote the development of old cities and as it is only a guiding opinion, it does not involve the provision of any kind of support. Nonetheless, the policy of supporting specific industries seems to remain in place. For instance, the energy sector receives support to develop particular alternative energy sources (e.g. natural gas, wind power, solar power, geothermal power and nuclear power). To this end, in 2014, the State Council

[148] Catalogue on the Guidance of Strategic Emerging Industries Key Products and Services, National Development and Reform Commission, Public Notice 2013 No. 16, 22 February 2013. Viewed at: http://www.sdpc.gov.cn/zcfb/zcfbgg/201303/W020130307592414547502.pdf; Sichuan Province Catalogue on the Guidance of Strategic Emerging Industries (Products) Development (2014), Sichuan Provincial Economic and Informatization Commission Office, Chuan Jing Xin Ban Xin Xing [2014] No. 43, 29 April 2014. Viewed at: http://www.sc.gov.cn/10462/10464/10727/10729/2014/5/4/10300650.shtml.

[149] People's Bank of China (2014), Annual Report 2014. Viewed at: http://www.pbc.gov.cn/english/130739/index.html.

[150] The National Old Industrial Base Adjustment and Renovation Plan, NDRC Dongbei No. 543 of 18 March 2013. Viewed at: http://www.gov.cn/zwgk/2013-04/02/content_2368391.htm.

issued an Action Plan on the Energy Development Strategy (2014-2020) to improve the policies regulating the energy sector, support scientific research in the field, promote the use of renewable energy, and encourage financial institutions to support projects related to the production and use of clean energy.[151] In addition, in 2015, the Ministry of Finance (MOF) circulated the Interim Measures on the Administration of the Renewable Energy Development Special Fund, which aim at supporting the production and use of renewable energy and "new" energy.[152] There are no details with respect to the types of energy to be supported or how the Fund will be managed. An additional Energy Saving and Emission Reduction Fund was established by the MOF in 2015 to provide incentives for the development of technologies that save energy and reduce emissions.[153] The CPC Recommendations on Developing the 13th Five Year Plan also mention "new" energy" as one of the areas that will get government support with the aim of replacing traditional energy and improving the environment.

3.129. In addition to the support granted to the energy industry, China continues to support, *inter alia*, SMEs, the "international economy and trade" and the purchase of household electric appliances in rural areas (Table 3.14). According to the authorities the measures that were in place to support the production of aircrafts were removed in 2013.

Table 3.14 Various support measures, 2015

Support	Type of support	Legislation
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	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 (Guo Fa [2012] No. 40)
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)
Hydropower products	VAT refund	Circular on VAT policy of large hydroelectric power enterprises [a]
New energy automobiles	Financial appropriations to support enterprises manufacturing new energy automobiles. The aim of this support measure is to reduce the purchase price for the final consumer Exemption from the Vehicle Tax	Circular on Further Promoting New Energy Automobiles[b] Announcement on Vehicle Purchase Tax Exemption for New Energy Automobiles[c]
SMEs	Financial appropriations for R&D projects, and assistance in obtaining credit and other financial services	Interim Measures on Special Fund for the development of SMEs[d]
International economy and trade	Financial appropriations	Administrative Measures on Special Fund for International economy and trade[e]
Purchase of household electric appliances in rural areas	Financial appropriations for farmers	Administrative Measures on Support Fund for Household Electric Appliances in Rural Areas[f]
Domestically produced regional aircraft	VAT exemption	Circular on the Value-Added Tax Exemption for Domestically Produced Regional Aircraft, Ministry of Finance and State Administration of Taxation, Cai Shui Zi [2000] No. 51 Circular on the Applicability of the Value-Added Tax Exemption for Domestically Produced Regional Aircraft to the N-5 Aircraft, Ministry of Finance and State Administration of Taxation, Cai Shui [2002] No. 97

[151] Guo Ban Fa [2014] No. 31, 7 June 2014. Viewed at http://www.gov.cn/zhengce/content/2014-11/19/content_9222.htm (in Chinese only).
[152] Cai Jian [2015] No. 87, 2 April 2015. Viewed at http://jjs.mof.gov.cn/zhengwuxinxi/zhengcefagui/201504/t20150427_1223373.html (in Chinese only).
[153] Interim Measure on Administration of Support Fund for Energy Saving and Emission Reduction. Cai Jian [2015] No. 161, 12 May 2015. Viewed at: http://jjs.mof.gov.cn/zhengwuxinxi/zhengcefagui/201505/t20150519_1233458.html (in Chinese only).

Support	Type of support	Legislation
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	..

.. Not available.

a Ministry of Finance, State Administration of Taxation, Cai Shui [2014] No. 10, 12 February 2014. Viewed at: http://szs.mof.gov.cn/zhengwuxinxi/zhengcefabu/201402/t20140224_1046354.html.
b Ministry of Finance, Ministry of Science and Technology, Ministry of Industry and Information Technology and National Development and Reform Commission, Cia Jian [2013] No. 551, 13 September 2013. Viewed at: http://www.miit.gov.cn/n11293472/n11293832/n12843926/n13917042/15629217.html.
c Ministry of Finance, State Administration of Taxation, Ministry of Industry and Information Technology Announcement No. 53 of 2014, 1 August 2014. Viewed at: http://www.miit.gov.cn/n11293472/n11293832/n12845605/n13916898/16091756.html.
d Ministry of Finance, Ministry of Industry and Information Technology, Ministry of Science and Technology, Cai Qi [2014] No. 38, 11 April 2014. Viewed at: http://www.miit.gov.cn/n11293472/n11293832/n12843926/n13917012/15956192.html.
e Ministry of Finance and MOFCOM, Cai Qi [2014] No. 36, 9 April 2014. Viewed at: http://www.mof.gov.cn/preview/qiyesi/zhengwuxinxi/zhengcefabu/201404/t20140422_1070187.html.
f Ministry of Finance, Cai Jian [2008] No. 709, 24 October 2008. Viewed at: http://www.mof.gov.cn/zhengwuxinxi/caizhengwengao/caizhengbuwengao2008/caizhengwengao2008dishiqi/200901/t20090116_108794.html.

Source: Information compiled by the WTO Secretariat.

3.3.2 Competition policy

3.3.2.1 Legislative and institutional framework

3.130. China's competition policy comprises laws, administrative regulations and departmental rules. The laws concerning competition policy include the Anti-Monopoly Law (AML), the Anti-Unfair Competition Law, the Rules on Acquisition of Domestic Enterprises, and the Price Law. Although it is the most comprehensive piece of legislation regarding competition policy, the AML does not take precedence over other competition-related legislation.[154]

3.131. The AML has jurisdiction over anti-competitive activities that have an effect on the Chinese domestic market, whether they take place within China or abroad. It focuses on preventing, analysing and combating three kinds of monopolistic conduct: 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 the production, processing, sales, transportation, and storage of agricultural products. The AML, also, allows the exercise of exclusive activities by state-owned enterprises (SOEs) or enterprises that have been granted exclusive production and sales rights legally. In accordance with the AML, the State supervises and regulates these firms' operations and the prices of the goods and services they supply. In this respect, China has laws and regulations that allow concentrating production in certain sectors into monopolies, near-monopolies, or authorized oligopolies, such as the Postal Law (1986), the Railroad Law (1991), the Civil Aviation Law (1995), the Electricity Law (1996), the Regulations on Telecommunication (2000), and the Commercial Bank Law, as amended.

3.132. Since the last Trade Policy Review in 2014, MOFCOM published and implemented new regulations with respect to mergers. The Interim Provisions on Standards Applicable to Simple Cases of Concentration of Undertakings, issued in February 2014, specify the standards applicable to simple cases of concentration of undertakings and grant MOFCOM the power to revoke the determination of simple cases for concentration of undertakings that meet specific conditions.[155] This allows the competition policy enforcement agencies to apply simplified procedures to cases involving relatively low combined market share and to concentrate on larger cases. The Provisions

[154] The AML may be viewed at the MOFCOM website: http://english.mofcom.gov.cn/article/policyrelease/Businessregulations/201303/20130300045909.shtml.
[155] MOFCOM Announcement No. 12 of 11 February 2014. Viewed at: http://www.mofcom.gov.cn/article/b/c/201402/20140200487038.shtml (in Chinese only).

on Imposing Restrictive Conditions for Concentration of Undertakings (For Trial Implementation), published by MOFCOM (effective since January 2015), seek to provide a clearer legal basis for the determination, evaluation and supervision of restrictive conditions.[156]

3.133. The State Administration for Industry and Commerce (SAIC), on the other hand, issued the Provisions on Prohibiting the Abuse of Intellectual Property Rights to Preclude or Restrict Competition, SAIC Decree No. 74 of 7 April 2015.[157] The Provisions, effective since 1 August 2015, are geared to addressing the conflict between intellectual property (IP) protection and enforcement of competition policy. The SAIC IP Rules specify requirements for an operator with a dominant market position to comply with the AML in entering and enforcing IP Agreements related to China. A multi-factor, rule of reason analysis is generally adopted. Under the Provisions, an IP agreement related to China is presumptively considered to be in compliance with the AML if: an operator's market share does not exceed 20% of the relevant market, or there are at least four alternative and independent technologies on the relevant market; or, an operator's market share does not exceed 30% of the relevant market, or there are at least two alternative and independent technologies on the relevant market, unless there is evidence that the agreement has the effect of restricting or excluding competition.

3.134. Under SAIC provisions, an operator with a dominant market position is prohibited from engaging in any of the following practices that may exclude or restrict competition: a) refusal to license IPRs; b) exclusive trading; c) tying or bundling the sale of additional products; d) providing differential treatment to parties in similar conditions; e) being granted the exclusiveness for improvements to the relevant IP; and f) prohibiting the challenge of the validity of the IPR by a party to the agreement. With respect to the latter, the SAIC Provisions also restrict recourse to IP pooling to impair the ability of a third party not participating in the pooling to challenge the validity of the corresponding IPRs or of the licence relevant to them. The Provisions also forbid entering abusive IP standard-setting agreements. The penalties for violation of the provisions consist in cease-and-desist orders and the confiscation of 1%-10% of the sales revenue of the previous year in cases where an abusive agreement exists, or a fine of no more than RMB 500,000 in cases of breaches without an agreement.

3.135. Competitive behaviour in public enterprises is regulated by SAIC Decree No. 20 of 2006. In accordance with the Decree, public enterprises should refrain from the following practices: a) prescribing that users and consumers can only buy and use commodities supplied by them or by operators designated by them; b) compelling users and consumers to buy unnecessary commodities supplied by them or by operators designated by them; c) preventing users and consumers from buying and using commodities conforming to the technological standards provided by other operators; and d) refusing, suspending or reducing supplies of relevant commodities or charging excessively if the users and consumers refuse to accept their unreasonable conditions. Public enterprises committing any of the offences listed above will be issued cease-and-desist orders and imposed a fine of between RMB 50,000 and RMB 200,000 according to the seriousness of the case. Allegations against illegal practices are investigated and settled by the administrative authorities for industry and commerce at the provincial level or the level of city with subordinated districts. The number of cases of public enterprises restricting competition in 2014 reached 812, while there were 392 cases in the first three quarters of 2015.

3.136. MOFCOM, the NDRC and the SAIC are responsible for different aspects of the enforcement of anti-monopoly laws and regulations. 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. MOFCOM's Anti-Monopoly Bureau is in charge of conducting anti-trust reviews of the concentration of undertakings. The

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[156] Mainly, the decree stipulates three kinds of restrictive conditions, including: (1) structural conditions requiring the disinvestment of tangible assets, IPRs and other intangible assets, or relevant rights and interests; (2) conditions requiring certain actions to be taken, such as those requiring the business operators participating in a concentration transaction to make available their respective networks, platforms and other infrastructure, license key technologies (including patents, proprietary technologies or other IPRs), or to terminate exclusive agreements; and (3) comprehensive conditions that combine structural conditions with conditions requiring actions to be taken. MOFCOM Decree No. 6, 4 December 2014: Viewed at: http://www.mofcom.gov.cn/article/b/c/201412/20141200835207.shtml (in Chinese only).

[157] SAIC Decree No. 74, 7 April 2015. Viewed at: http://www.saic.gov.cn/zwgk/zyfb/zjl/fld/201504/t20150413_155103.html (in Chinese only).

NDRC and the SAIC 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 the NDRC has responsibility for investigating and punishing price-related violations of the rules in these areas, while the SAIC's Anti-Monopoly and Anti-Unfair Competition Enforcement Bureau deals with non-price issues regarding monopoly agreements, abuse of dominant market position, and abuse of administrative power to exclude or restrict competition. Each authority has issued a series of departmental rules in their own area of responsibility.

3.137. Violations of the AML are subject to administrative penalties, including fines, confiscation of illegal gains, and cease-and-desist orders. These may be applied by MOFCOM, the SAIC or the NDRC, according to the nature of the case. In addition to these administrative measures, parties injured by violations of anti-monopoly provisions may take their case to the courts.

3.3.2.2 Monopoly agreements and dominant market positions

3.138. The Anti-Monopoly Law (AML) and its implementing regulations[158] provide definitions of dominant market positions and include a list of the types of agreement that are prohibited, including in the area of IP. The AML identifies six types of horizontal and three types of vertical agreements as prohibited practices. The prohibition applies to written or verbal monopoly agreements and to concerted behaviour among firms without explicit written or verbal agreement.

3.139. Industrial associations are prohibited from organizing or facilitating monopoly agreements among their members.[159] The AML provides for the application of administrative penalties for concluding and implementing a monopoly agreement, including: issuing a cease-and-desist order to discontinue the violation; the confiscation of any unlawful gains; and, in addition, the imposition of a fine of between 1% and 10% of the sales achieved in the previous year. If the monopoly agreement has not yet been implemented, the fine may be for up to RMB 500,000. Mitigation or exemption from the penalty may be obtained in cases of voluntary collaboration with the investigating authority or by providing material evidence for the investigation.

3.140. A firm deemed to have a dominant market position is forbidden from engaging in certain types of conduct that may lead to abuse of its dominant position. For instance, it is 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. The NDRC and the SAIC carry out investigations to identify whether an enterprise shall be considered to have a dominant market position on a case-by-case basis. Firms found to be dominant are obliged to grant competitors access to essential facilities they might hold on reasonable conditions. They may also be subject to fines. For example, in May 2015 the NDRC determined that Qualcomm Incorporated, the world's largest smartphone chipmaker, had engaged in anticompetitive conduct relating to the licensing of standard essential patents for wireless communication technology and baseband chip sales. The NDRC ordered Qualcomm to cease certain anticompetitive conduct and pay a fine of RMB 6.088 billion (US$975 million), the largest penalty imposed to date under the AML. Qualcomm announced that it would not contest the NDRC Decision and agreed to change aspects of its patent licensing and baseband chip sales practices in China.

3.141. Price fixing and quantitative restrictions, such as those decided by cartels, are forbidden both under the AML and the Price Law. The Price Supervision and Anti-Monopoly Bureau of the NDRC is responsible for surveillance with respect to activities to fix or attempt to fix either prices or quantities of commodities. In accordance with the NDRC Provisions on Procedures for Administrative Enforcement of Prohibition of Price Monopoly (NDRC Decree 2010/8), the NDRC may delegate the faculty to act as the anti-price-monopoly enforcement agency within their administrative territories to the relevant provincial-level authorities, including the provincial Development and Reform Commissions (DRCs). Likewise, the provincial DRCs may delegate the investigation to local price-supervision departments, hierarchically one level below.

[158] These include the NDRC Provisions on Prohibition of Price Monopoly (NDRC Decree 2010/7), SAIC Provisions on the Prohibition of Monopoly Agreements (SAIC Decree 2010/53), SAIC Provisions on the Prohibition of Abuse of Dominant Market Positions (SAIC Decree 2010/54), and SAIC Provisions on Prohibiting the Abuse of Intellectual Property Rights to Preclude or Restrict Competition.

[159] The Anti-Monopoly Law, 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.

3.142. The authorities have stated that, since the last Trade Policy Review, China's competition law enforcement bodies have carried out law enforcement activities against price monopoly, and abuse of dominant market positions. The NDRC and the competent provincial anti-price-monopoly enforcement authorities have dealt with various price fixing acts in the building materials, automobile, machinery making, and international marine transportation industries. In 2014 and 2015, the NDRC and the relevant provincial-level authorities dealt with five horizontal price-monopoly cases in which fines reached approximately RMB 1.76 billion were imposed. In 2015, the NDRC applied a fine of 8% of sales to several enterprises providing wireless communication services. In 2014, the NDRC applied fines for anti-trust behaviour dealing to several companies in the bearings industry (6-8% of the value of sales fines) and the auto parts industry (6%).[160]

3.143. The Anti-Monopoly and Anti-Unfair Competition Enforcement Bureau of the SAIC is responsible for the enforcement of all non-price-related violations resulting from monopoly agreements and dominant market position. The practices that may be investigated include the possible formation of monopoly agreements or abuse of dominant position leading to refusal to deal, or the imposition of unreasonable conditions. The 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 1 January 2014 to end-2015, the SAIC investigated 58 alleged monopoly cases. By end-2015, 27 of those cases had been concluded, involving areas such as insurance, tourism, water supply, electricity, gas supply, tobacco, building materials, as well as a variety of business entities and related industrial associations; five cases were suspended. The administrative penalties applied for the concluded cases are available on SAIC's website.

3.3.2.3 Administrative monopolies

3.144. Administrative monopolies, defined as the use of administrative powers to exclude or restrict competition by administrative agencies and organizations of public affairs management, are forbidden under Article 8 and Chapter 5 of the AML.[161] There are six types of prohibited administrative monopoly conduct as defined in the AML: 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 excluding or restricting competition. SAIC Decree 2011/55 further elaborates on the prohibitions defined in the AML. The NDRC Provisions on Prohibition of Price Monopoly contain similar provisions with a focus on price-related violations. Remedies against administrative monopolies generally consist of cease-and-desist orders or other measures to eliminate the anti-competitive practices, together with disciplinary penalties for the officials responsible of abusing their powers by engaging in activities which exclude and restrict competition. They are applied by the administrative authority's superior authority, which can receive suggestions from the anti-monopoly enforcement agencies to this end.

3.145. Business operators are also prohibited from implementing monopolistic agreements and abusing their dominant position by means of administrative decisions, delegations, or regulations.[162] Administrative remedies to this end are prescribed in SAIC Decree No. 2011/53 (SAIC Provisions on the Prohibition of Monopoly Agreements) and SAIC Decree No. 2011/54 (SAIC Provisions on the Prohibition of Abuse of Dominant Market Positions).

3.146. In the course of this review, the authorities have noted that the NDRC has intensified investigations related to the anticompetitive effects of abuse of administrative power. Between 2014 and 2015, six cases of abuse of administrative power to exclude and restrict competition were published, involving authorities such as the Transportation Department of the Hebei Province, the Transportation Department of the Shandong Province, the Communications Administration of the Yunnan Province, the Health and Family Planning Commission of the Bengbu City Anhui Province, the Health and Family Planning Commission of the Sichuan Province, and the Health and Family Planning Commission of the Zhejiang Province, and involving conduct such as designated dealings, organizing undertakings so as to lead to a monopoly, and imposing discriminatory

[160] NDRC online information (in Chinese only). Viewed at: http://www.ndrc.gov.cn/.

[161] SAIC Decree No. 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.

[162] SAIC Decree No. 2011/55, Article 5.

qualification requirements on non-local merchandises in bidding. However, no cases have been registered in the courts against administrative monopoly.

3.3.2.4 Mergers and acquisitions

3.147. In accordance with Chapter 4 of the AML, all concentrations above certain thresholds must be notified prior to any activity taking place. The proposed mergers are then subject to a pre-merger anti-trust review conducted by MOFCOM, and require its approval to proceed.[163] The AML provides a definition of 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. In the case of a merger, each participant to it must submit a notification.

3.148. The thresholds above which concentration must be notified were established by the 2008 State Council Regulations, and reaffirmed by the 2014 Guiding Opinions on the Application for Concentration of Business Operators. They are: a) worldwide turnover of the merged entity of more than RMB 10 billion in the year preceding the merger, and turnover in mainland China of at least two of the merging operators exceeding RMB 400 million each; and b) combined turnover in mainland China of all the operators participating in the concentration exceeding RMB 2 billion in the immediately preceding fiscal year, and turnover in China of at least two operators exceeding RMB 400 million each in the preceding fiscal year.[164] Multiple-concentration activities between the same entities within a two-year period are considered as a single transaction where the value is the sum of the turnover from the transactions. In this case, 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.[165]

3.149. A Registration Form of Anti-Monopoly Declaration Information for Concentration of Business Operators is issued by MOFCOM after receipt of the notification and supporting material describing the impact of the concentration on competition in the relevant market, including the number of competitors and their shares, market access conditions, market shares of the merging companies and effect of the concentration on the industry and consumers, among others.

3.150. MOFCOM also has the faculty to conduct investigations 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 excluding or restricting competition.[166] Under the Interim Provisions on Investigation of Unnotified Concentrations of Undertakings, in effect since 1 February 2012, MOFCOM may initiate investigations to determine whether non-notified 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 non-notified concentration activity would have required clearance through anti-trust review. MOFCOM may also order that the concentration be reversed.

3.151. MOFCOM must make a preliminary review of the concentration notified and issue a decision on whether to conduct a further review within 30 days of the date it receives the complete documents or materials.[167] MOFCOM must notify the parties involved in the concentration of its decision with respect to the concentration in writing. The concentration may not be implemented before MOFCOM makes such a decision and approves it. 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. MOFCOM may approve the concentration, reject it, or approve it with conditions. 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.

[163] Apart from MOFCOM, the SAIC and sectoral regulators may be involved in merger reviews.
[164] MOFCOM (2014), Guiding Opinions on the Application for Concentration of Business Operators, effective 6 June 2014.
[165] MOFCOM Decree No. 2009/11, Measures on the Notification of Concentrations of Undertakings.
[166] State Council Regulation on the Notification Thresholds for Concentrations of Undertakings, art. 4.
[167] Reference to the materials and documents required to be submitted is made in Article 23 of the AML.

3.152. MOFCOM's review considers the effect of the merger on market competition, through the examination of the following elements: a) the market share of the business operators involved in the relevant market and their controlling power over that market; b) the degree of market concentration in the relevant market; c) the effect of the concentration on market access and technological progress; d) the influence of the concentration on consumers and other business operators; e) the effect of the concentration on national economic development; and f) other elements that may have an effect on market competition. The authorities have noted that the same criteria are applied to all businesses, including SOEs. In cases of acquisition of a domestic enterprise by a foreign investor or when a foreign investor participates in concentrations by other means, if the authorities consider that state security is involved, a national security review must also be conducted. In cases where a concentration has or may have the effect of excluding or restricting competition, the State Council may decide not to prohibit it, if the business operators concerned can prove that the gains from concentration outweigh the negative impact on competition, or that the concentration is pursuant to the public interest.

3.153. During the period under review MOFCOM issued three new pieces of legislation with respect to mergers: the Provisions on Imposing Additional Restrictive Conditions for Concentration of Undertakings, MOFCOM Decree No. 6, 2014 (For Trial Implementation); the Guiding Opinions on Application of Concentrations of Undertakings (revised in 2014); and the Interim Provisions on Standards Applicable to Simple Cases of Concentration of Undertakings (MOFCOM [2014] No. 12).[168]

3.154. MOFCOM Decree No. 6 of 2014 stipulates that MOFCOM may impose additional restrictive conditions to alleviate the adverse impact of a concentration on competition. The Provisions allow for three kinds of restrictive conditions to be applied: a) structural conditions requiring the disinvestment of tangible assets, IPRs and other intangible assets, or relevant rights and interests, etc.; b) conditions requiring certain actions to be taken, such as those requiring the business operators participating in a concentration transaction to make available their respective networks, platforms and other infrastructure, license key technologies (including patents, proprietary technologies or other IPRs), terminate exclusive agreements, etc.; and c) comprehensive conditions that combine structural conditions with conditions requiring actions to be taken.

3.155. The Guiding Opinions revised in 2014 set rules for the pre-merger notification, application and examination of concentrations over a certain threshold. They are a revised version of the Guiding Opinions on the Application for Concentration of Business Operators promulgated on 5 January 2009. The new Guiding Opinions added provisions related to the criteria for notification, methods of turnover calculation, consideration for determining control, and the handling of false notifications.

3.156. Special review standards are applied to concentrations defined as simple. MOFCOM's Interim Provisions of 2014 define a concentration as a simple case when: a) in the same relevant market, the total market share of all business operators participating in the concentration is less than 15%; b) an upstream-downstream relationship exists among the business operators participating in the concentration, and the market share of such business operators in both the upstream and the downstream markets is less than 25%; c) the business operators participating in the concentration are neither in the same relevant market nor have any upstream-downstream relationship, and their market share in each market relevant to the concentration is less than 25%; d) the business operators participating in the concentration intend to establish a joint venture abroad, which will not engage in any economic activities within the territory of China; e) the business operators participating in the concentration intend to acquire the equity or assets of an overseas enterprise which does not engage in any economic activities within the territory of China; or f) a joint venture jointly controlled by two or more business operators will be controlled by one or more of the existing business operators after the concentration.

[168] 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), and the Interim Provisions on Assessment of the Impact of Concentrations of Undertakings on Competition (MOFCOM Announcement [2011] 55).

3.157. In 2014, MOFCOM received a total of 262 applications for the approval of the concentration of undertakings and accepted and concluded 245 cases. Of these, 240 were unconditionally approved, accounting for about 97% of the total; four were conditionally approved and only one was prohibited. In 2015, MOFCOM received 352 applications for the approval of the concentration of undertakings, accepted 338 and concluded 312 cases. Among the closed cases, 310 were unconditionally approved, accounting for about 99% of the total; and 2 were conditionally approved. From the date of implementation of the AML in August 2008 up to the end of 2015, MOFCOM received 1,480 applications for the approval of the concentration of undertakings, accepted 1,380 and concluded 1,302 cases. Among the closed cases, 1,274 were unconditionally approved, accounting for about 98%; 26 were conditionally approved and 2 were prohibited.

3.158. In 2013, 12 State Council departments issued a document (Guiding Opinions) to encourage companies operating in some key industries, such as agriculture, automobiles, cement, electrolytic aluminium, electronic information, pharmaceuticals, rare earths, shipbuilding, and steel, to increase their capacity through mergers and acquisitions in order to improve their efficiency and global competitiveness. In some of these industries, the Guiding Opinions also set targets regarding the degree of concentration to be reached by 2015. The legislation also encourages investors in these industries to go abroad.

3.3.3 National security review of concentrations

3.159. In accordance with Article 31 of the AML, acquisitions by foreign investors of domestic enterprises considered to be related to national security must undergo a national security review. If, as a result of the review, the proposed merger 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.

3.160. The Security Review System for the Mergers and Acquisitions of Domestic Enterprises by Foreign Investors was formally implemented in March 2011 through the Notice of the General Office of the State Council on Launching the Security Review System for Mergers and Acquisitions of Domestic Enterprises by Foreign Investors (Guo Ban Fa [2011] No. 6), which entered into force on 5 March 2011. In 2015, the Notice of the General Office of the State Council on Printing and Distributing the Trial Measures for the National Security Review of Foreign Investment in Pilot Free Trade Zones (Guo Ban Fa [2015] No. 24) was published and implemented to explore and improve the system for national security review of foreign investments which is expected to match the negative list management mode. The procedures to conduct national security reviews conducted by MOFCOM 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 No. 2011/53), which entered into force on 1 September 2011. 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 the NDRC and MOFCOM.

3.161. Mergers and acquisitions of domestic enterprises by foreign investors are subject to national security review in the following cases: 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. The prospective investor must apply for the review.

3.162. National security reviews can have one or two stages: a general review and a special review. The general review is carried out by the Inter-Ministerial Joint Conference to which MOFCOM refers the proposed merger and must be completed within 30 working days and carried out by means of written opinion solicitation. The Joint Conference seeks opinions in writing from the relevant departments under a strict time frame. If the relevant departments reach a consensus that the concerned transaction will not have any impact on national security, the concentration operation may proceed. However, if the relevant departments determine that the transaction may have an impact on national security, the Joint Conference initiates the procedures for a special review, issues review opinions within five working days upon the receipt of all the written opinions, and informs MOFCOM of this in writing. Review opinions are issued only when there is a general consensus. When there are major different views, the Joint Conference submits the case to the

State Council for a decision. The Joint Conference must complete the special review within 60 working days of the launch of the procedures.

3.163. The Notice of the General Office of the State Council on Printing and Distributing the Trial Measures for the National Security Review of Foreign Investment in Pilot Free Trade Zones (Guo Ban Fa [2015] No. 24), in force since 8 May 2015, governs national security reviews in PFTZs.[169] The rules of the reviews for PFTZs follow the general negative list approach to investment that prevails in the zones. To this end, the Notice defines the scope of the reviews, which covers: investment in PFTZs by foreign investors in: the military industry or related supporting industries or other fields involving national security; regions near key and sensitive military facilities; fields such as agriculture, energy and resources, key infrastructure, transport services, culture, information technology products and services; and key technologies and equipment manufacturing, in which the foreign investors acquire the actual controlling right.[170] The security review of foreign investment in the financial sector is not covered by these procedures and is subject to separate ones. For investors from Hong Kong, China; and Macao, China these rules apply only as a reference.

3.164. The Notice mandates that, when handling the formalities for foreign investment record-filing, ratification or examination and approval within their authorities, PFTZ management organs must notify, in a timely manner, prospective foreign investors in areas falling within the scope of security reviews that they must apply for the review prior to engaging in any investment-related formalities. The review will analyse the impact of the foreign investment on: national security, including on domestic manufacturing capacity and domestic service provision capacity; the national economy; order, local culture and public morality; security; and the R&D capacity of key technologies related to national security. The NDRC and MOFCOM conduct the review in conjunction with the relevant departments of the fields related to the foreign investment. The procedures are similar to those for reviews outside the zones.

3.165. If the review determines that the investment will or may affect national security but that the effect can be eliminated by imposing additional conditions, the Inter-Ministerial Joint Conference may require the foreign investors to issue a written commitment to revise the investment plan. After the foreign investors have issued this written commitment, the Conference may impose additional conditions to approve the merger. MOFCOM notifies in writing the foreign investors and the PFTZ management organs of the Conference's review opinions.

3.3.4 Price controls

3.166. China continues to apply price controls to commodities and services deemed to have a direct impact on the national economy and people's livelihoods, when necessary. Price controls are set by the NDRC at the central level, and the provincial DRCs and the Bureau of Commodity Pricing in each province.[171]

3.167. Price controls take two forms: "government prices" or "government-guided prices". Government prices (or government-determined prices) are fixed prices set by the authorities, while government-guided prices, are prices set within a range. The commodities and services subject to price controls are listed in a Central Government Pricing Catalogue and in Local Government Pricing Catalogues compiled by the provinces, autonomous regions and municipalities, but they are approved by the NDRC.

[169] These are: the China (Shanghai) Pilot Free Trade Zone, the China (Guangdong) Pilot Free Trade Zone, the China (Tianjin) Pilot Free Trade Zone, the China (Fujian) Pilot Free Trade Zone.

[170] Foreign investors are understood to obtain actual controlling rights when: a) a foreign investor and its affiliated investors hold more than 50% of the shares of the enterprise in total; b) several foreign investors hold more than 50% of the shares of the enterprise in total; c) a foreign investor and its affiliated investors or several foreign investors hold less than 50% of the shares of the enterprise in total but possess the voting rights that are sufficient to materially influence the resolutions of the meetings or general meetings of shareholders or the board of directors; and d) under other circumstances where foreign investors have material influence on the business decisions, human resources, and finance and technology of the enterprise.

[171] Guided prices or government-set prices can be imposed on commodities that have significant bearing on national economic development and people's livelihood, which are rare or are a natural monopoly, or are considered key public utilities or public services (Article 18 of the Price Law of 1998).

3.168. The determination of government prices or government-guided prices varies in accordance with the type of product or service. The criteria used in their formulation include: the market situation, average social costs, as well as economic, regional and seasonal factors, development and social needs. The methodology for setting prices may differ across provinces but takes into account the same factors.

3.169. Since the last review in 2014, China has liberalized the price of several goods and services. The ex-factory price of explosive materials and the charges for some construction projects were liberalized in 2014. In addition, in 2015 the prices of military goods and the price of tobacco leaves were liberalized, even if the product is still subject to state monopoly. Government-set prices are applied to refined oil products, natural gas, special medicine, and some services (Table 3.15). Products classified as the important central reserve materials (grain, cotton, sugar, filature silk, crude oil, processed oil, and chemical fertilizers), which were included in the 2001 Catalogue of Central Determined Prices, were removed from the 2016 Catalogue.[172]

Table 3.15 Central government set or government-guided prices, 2015

Product	Coverage/rationale
Government set prices	
Common salt	The ex-factory price and wholesale price of common salt are set by the Government. Rationale for maintaining price control: important commodity under state monopoly.
Electricity power	Coverage of government pricing includes the prices for power transmission and distribution of the power grids at the provincial level or above and feed-in and users' sales tariffs when there is no market competition. The rationale for maintaining a price control is that power transmission and distribution are natural monopolies due to the network nature and should be regulated by the Government. In the case of feed-in and users' sales tariff not participating in market competition, the price-setting rationale is to guarantee the interests of producers and consumers. The authorities expect these prices to be gradually liberalized and shaped by the market when conditions are mature.
Water supplied by conservancy projects	The price of water supplied by conservancy projects directly under the Central Government or cross-province (cross-district or cross-city) conservancy projects is set by the Government. The rationale for maintaining a price control is that water supplied by conservancy projects is a scarce resource and a natural monopoly.
Commercial bank basic services and credit enquiry service charges, bank card transaction fees	Charges for remittance transfers, cash remittances, cash withdrawals, notes and other basic services of commercial banks are set by the Central Government; bank card transaction and credit enquiry service fees are subject to prices set or guided by the Government. The rationale of maintaining price control is the lack of effective competition in these types of business which are of a monopolistic nature.
Charges for authenticating academic credentials, academic degree certificates and citizen's identity	The charges for authenticating academic credentials, academic degree certificates and citizen's identity are set by the Government. The rationale is that these are public services.
Important postal business charges	The prices of letter mailing, mailing of packages with a single weight of no more than 10 kg, postal remittance and postal distribution of newspapers and periodicals are set by the Government. The rationale for maintaining price controls is that the postal business is closely linked to people's livelihoods and is of a public service nature; and some postal enterprises conduct exclusive business operations.
Special medicines and blood	The maximum ex-factory price and the maximum sales price of narcotic drugs and the first category of psychotropic drugs and the price of clinical blood supplied by blood stations are set by the Government. The rationale for maintaining price controls is that the business is economically important, affects people's livelihoods and public interests, and lacks full market competition.
Government-guided prices	
Refined oil products	The retail price of refined oil products is guided by the Government. It is determined based on the price of the crude oil in the international market and a processing fee, taxes and transportation costs in China. The rationale for maintaining a price control is the lack of market competition.
Natural gas	The gate station price of some types of onshore natural gas in all provinces and the price for cross-province long-distance pipeline transportation are guided or set by the Central Government. The rationale for maintaining a price control is that natural gas is of vital importance to the public and that the natural gas system needs to be reformed comprehensively before prices are liberalized.
Railway transportation prices	Railway passenger fares and cargo and baggage transportation prices are mainly guided or set by the Government (except when there is competition). The rationale is that state railways and railways operated by joint ventures in which the Central Government has a controlling stake are under the direction of the China Railway Corporation and therefore should be subject to prices regulated by the Government.
Monopolistic port service fees	The charges of the monopolistic services at fishing ports and main ports along the coast, the main trunk of Yangtze River, and all the other ports open to vessels of foreign nationality are subject to prices guided by the Government.

[172] GACC Decree [2015] No. 29, 8 October 2015, The 2016 Catalogue of Central Determined Prices, which entered into force on 1 January 2016. Viewed at: http://www.sdpc.gov.cn/zcfb/zcfbl/201510/t20151020_755152.html.

Product	Coverage / rationale
	The rationale for maintaining a price control is that ports are important public utilities and they are a monopoly in certain regions.
Passenger fee rates of domestic civil air routes and the domestic section of international civil air routes	The passenger fares of the domestic civil air routes are subject to prices guided by the Government (except for competitive areas). Airlines are permitted to raise the fare by no more than 25% of a benchmark fare, but there is no limit for the bottom fare. The rationale for maintaining price control is that competition has not yet developed in some areas of the passenger transportation industry in domestic civil air routes.

Source: Information provided by the Chinese authorities; NDRC online information; and the 2016 Catalogue of Central Determined Prices (GACC Decree No. 29 of 2015).

3.170. Local governments can also issue regulations to set controlled or guided prices (Table 3.16). Minimum procurement prices for (unhusked) rice and wheat remain in place in main grain-producing areas (seven provinces for rice, and six provinces for wheat).

Table 3.16 Local government set or government-guided prices, 2015

Product	Type of control / rationale	Regulation
Environment protection charges	Hazardous wastes disposal charges are subject to local government pricing regulation. The rationale for maintaining a price control is that they are important public utility prices.	Measures for the Administration of Collection Standards for Pollutant Discharge Fees[a]
Urban household garbage disposal charges	Urban household waste charges are subject to local government pricing regulation. The rationale for maintaining a price control is that they are important public utility prices.	Circular on Implementing Urban Household Garbage Disposal Charges and Promoting Garbage Disposal Industrialization[b]
Sewage disposal charges	Sewage disposal charges are subject to local government pricing regulation. The rationale for maintaining price control is that they are important public utility prices.	Measures for the Administration of Collection Standards for Pollutant Discharge Fees
Real estate prices and charges of related services	Economic housing prices, low-price house rental and property service charges are subject to local government-guided prices. The rationale for maintaining a price control is that such prices are important prices of a public service nature.	Administrative Measures on Economic Housing[c] Administrative Measures on Low-price House Rental[d]
Entrance to sightseeing sites	Prices are subject to regulation of local government pricing or local government-guided prices. The rationale for maintaining a price control is that such prices are important prices of a public service nature.	Tourism Law[e]

a National Development and Plan Committee, Ministry of Finance, State Administration of Environment Protection, National Economy and Trade Committee Decree No. 31, 28 February, 2003. Viewed at: http://www.chinalaw.gov.cn/article/fgkd/xfg/gwybmgz/200308/20030800055997.shtml.
b Ji Jia Ge [2002] No. 872, 7 June 2002. Viewed at: http://www.mohurd.gov.cn/zcfg/jsbwj_0/jsbwjcsjs/200611/t20061101_157058.html .
c Jian Zhu Fang [2007] No. 258, 19 November 2007. Viewed at: http://www.gov.cn/zwgk/2007-12/01/content_822414.htm.
d Fa Gai Jia Ge [2005] No. 405, 14 March 2005. Viewed at: http://www.sdpc.gov.cn/zwfwzx/zfdj/jggg/200506/t20050613_128942.html.
e Chairman Decree No. 3, 25 April 2013. Viewed at: http://www.gov.cn/flfg/2013-04/25/content_2390945.htm.

Source: Information provided by the Chinese authorities.

3.171. In addition to the changes made to the list of goods and services subject to government prices and government-guided prices since the previous Review, there have been numerous adjustments to rates and fees. In 2015, the NDRC issued a total of 46 announcements concerning the pricing of commodities and services, 19 of which related to increases or decreases in the price of fuels.[173]

3.3.5 State trading and state-owned enterprises

3.3.5.1 State trading

3.172. In 2015 China submitted a new and full notification regarding state trading enterprises to the WTO.[174] The legislation regulating state trading has not changed since 2014, nor have the

[173] National Development and Reform Commission online information. Viewed at: http://jgs.ndrc.gov.cn/zcfg/.
[174] WTO document G/STR/N/10/CHN-G/STR/N/15/CHN, 19 October 2015.

reasons for maintaining this practice or the products subject to it. State trading remains in place to: ensure a stable supply and price of the products concerned; safeguard food security; and protect exhaustible and non-recyclable natural resources, and the environment.

3.173. Imports subject to state trading administration comprise: grain (including wheat, maize, and rice), sugar, cotton, chemical fertilizers, tobacco, crude oil, and processed oil (Table 3.17). They can be imported (and exported) only by authorized enterprises, in accordance with Article 11 of the Foreign Trade Law. Tobacco is the only state-traded product that can be traded solely by state-trading enterprises. Non-state trading enterprises that have obtained trading rights through registration may engage in the importation of part of the quota of products subject to tariff-rate quotas (grain, cotton, sugar, and certain chemical fertilizers), and of crude and processed oil. The NDRC (in the case of grains and cotton) and MOFCOM (for the other products) 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. No information was provided on the quantities imported under state trading.[175]

Table 3.17 Imports under state trading, 2013-15

Product	HS Code	Percentage of TRQ allocated to state-trading enterprises		
		2013	2014	2015[a]
Wheat	1001.11.00; 1001.19.00; 1001.91.00; 1001.99.00; 1101.00.00; 1103.11.00; 1103.20.10	90	90	90
Maize	1005.10.00; 1005.90.00; 1102.20.00; 1103.13.00; 1104.23.00	60	60	60
Rice	1006.10.11; 1006.10.19; 1006.10.91; 1006.10.99; 1006.20.10; 1006.20.90; 1006.30.10; 1006.30.90; 1006.40.10; 1006.40.90; 1102.90.11; 1102.90.19; 1103.19.21; 1103.19.90	50	50	50
Cotton	5201.00.00; 5203.00.00	33	33	33
Sugar	1701.12.00; 1701.13.00; 1701.14.00; 1701.91.00; 1701.99.10; 1701.99.20; 1701.99.90	70	70	70
Urea	3102.10.00	90	90	90
NPK	3105.20.00	51	51	51
Diammonium phosphate	3105.30.00	51	51	51
Other chemical fertilizers	3102.21.00; 3102.29.00; 3102.30.00; 3102.40.00; 3102.50.00; 3102.60.00; 3102.80.00; 3102.90.10; 3102.90.90; 3103.10.10; 3103.10.90; 3103.90.00; 3104.20.20; 3104.20.90; 3104.30.00; 3104.90.10; 3104.90.90; 3105.10.00; 3105.40.00; 3105.51.00; 3105.59.00; 3105.60.00; 3105.90.00	n.a.	n.a.	n.a.
Tobacco	2401.10.10; 2401.10.90; 2401.20.10; 2401.20.90; 2401.30.00; 2402.10.00; 2402.20.00; 2402.90.00; 2403.11.00; 2403.19.00; 2403.91.00; 2403.99.00; 4813.10.00; 4813.20.00; 4813.90.00; 5502.00.10; 5601.22.10; 8478.10.00; 8478.90.00	n.a.	n.a.	n.a.
Crude oil	2709.00.00	n.a.	n.a.	n.a.
Processed oil	2710.12.10; 2710.12.20; 2710.19.11; 2710.19.12; 2710.19.22; 2710.19.23; 2710.19.29	n.a.	n.a.	n.a.

a Provisional.

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

Source: WTO document G/STR/N/10/CHN-G/STR/N/15/CHN, 19 October 2015; and data provided by the authorities.

3.174. Exports subject to state trading and the enterprises in charge of trading these products also remain unchanged since the last Review. In 2015, exports subject to state trading were rice, maize, cotton, coal, crude and processed oil, tungsten ore and products, antimony ore and products, silver and tobacco (Table 3.18). According to the authorities, the volume of exports subject to state trading is determined taking into account market signals and so are export prices; there is no government intervention.[176] According to the authorities, export allocation amongst state-trading enterprises is also based on market principles.

[175] WTO document G/STR/N/10/CHN-G/STR/N/15/CHN, 19 October 2015.
[176] WTO document G/STR/N/10/CHN-G/STR/N/15/CHN, 19 October 2015.

Table 3.18 Export products subject to state-trading arrangements, 2014-15

Product (HS code)	Enterprises
Rice 1006.10.11; 1006.10.19; 1006.10.91; 1006.10.99; 1006.20.10; 1006.20.90; 1006.30.10; 1006.30.90; 1006.40.10; 1006.40.90	China National Cereals, Oil and Foodstuffs Import & Export Co. (renamed as COFCO in April 2007); Jilin Grain Group Import & Export Co. Ltd; and Heilongjiang Beidahuang Agriculture Group Corporation.
Maize 1005.10.00; 1005.90.00; 1104.23.00	China National Cereals, Oil and Foodstuffs Import & Export Co. (renamed as COFCO in April 2007); Jilin Grain Group Import & Export Co. Ltd; and Heilongjiang Beidahuang Agriculture Group Corporation.
Cotton 5201.00.00; 5203.00.00	Chinatex Cotton Import & Export Corporation; Xinjiang Uygur Autonomous Region Cotton and Jute Import & Export Co; Xinjiang Yin Long International Agricultural Co. Ltd (since 2012); and China National Cotton Reserve Corporation.
Coal 2701.11.00; 2701.12.10; 2701.12.90; 2701.19.00; 2702.10.00	China National Coal Group Corporation; Shanxi Coal Import & Export Group Co. Ltd; Shenhua Group Corporation Ltd; China Minmetals Corporation; and Aluminium Corporation of China Ltd.
Crude oil 2709.00.00	SINOCHEM Corporation; China International United Petroleum & Chemicals Co; and China National Offshore Oil Co.
Processed oil 2710.12.10; 2710.12.20; 2710.12.91; 2710.12.99; 2710.19.11; 2710.19.12; 2710.19.19; 2710.19.22; 2710.19.23; 2710.19.29; 2710.19.91; 2710.19.92; 2710.19.93; 2710.19.99; 2711.11.00; 2710.20.00	SINOCHEM Corporation; China International United Petroleum & Chemicals Co; China National United Oil Co; China National Offshore Oil Corporation; and China National Aviation Fuel Group Corporation.
Tungsten ore and products 2611.00.00; 2620.99.10; 2620.90.90; 2841.80.10; 2841.80.40; 2825.90.11; 2825.90.12; 2825.90.19; 2841.80.20; 2841.80.30; 2849.90.20; 8101.10.00; 8101.94.00; 8101.97.00	STEs are listed in MOFCOM Circular Shang Mao Han No. 1012 of 2013[a]
Antimony ore and products 2617.10.10; 2617.10.90; 2825.80.00; 8110.10.10; 8110.10.20; 8110.20.00; 8110.90.00	STEs are listed in MOFCOM Circular Shang Mao Han No. 1012 of 2013[a]
Silver 7106.10.11; 7106.10.19; 7106.10.21; 7016.10.29; 7106.91.10; 7106.91.90; 7106.92.10; 7106.92.90	STEs are listed in MOFCOM Circular Shang Mao Han No. 1012 of 2013[a]
Tobacco and by-products 2401.10.10; 2401.10.90; 2401.20.10; 2401.20.90; 2401.30.00; 2402.10.00; 2402.20.00; 2402.90.00; 2403.11.00; 2403.19.00; 2403.91.00; 2403.99.00; 4813.10.00; 4813.20.00; 4813.90.00; 5502.00.10; 5601.22.10; 8478.10.00; 8478.90.00	STEs are listed in MOFTEC Announcement No. 44 of 2001[b]
Tea 0902.10.10; 0902.10.90; 0902.20.10; 0902.20.90	According to circular Gua Fa No. 16 of 2004 State trading administration on the export was suspended on 19 May 2004[c, d]
Silk 5001; 5002; 5003; 5004; 5005	According to announcement No. 64 of 2004 of MOFCOM and the General Administration of Customs of PRC, state trading administration on the export was suspended on 1 January 2005[d, e]

a MOFCOM online information. Viewed at: http://www.mofcom.gov.cn/article/b/e/201312/20131200424659.shtml.
b MOFCOM online information. Viewed at: http://www.mofcom.gov.cn/aarticle/b/c/200404/20040400210082.html.
c State Council online information. Viewed at: http://www.gov.cn/gongbao/content/2004/content_62767.htm.
d China reserves the right to use state trading.
e MOFCOM online information. Viewed at: http://www.mofcom.gov.cn/article/b/e/200411/20041100306546.shtml.

Source: Information provided by the Chinese authorities and WTO document WT/STR/N/10/CHN-WT/STR/N/15/CHN, 19 October 2015.

3.3.5.2 State-owned enterprises

3.175. China continues to maintain a basic economic system in which public ownership is kept as the mainstay of the economy while allowing diverse forms of ownership to develop side by side. As a result, the private sector is dominant in industries such as clothing, food, and assembly for export, while sectors of strategic importance (e.g. energy; utilities; and transport, financial, telecom, education, and health care services) remain only partially open to private investment. These sectors are often dominated by large SOEs. The authorities stated that even though for historic reasons SOEs still hold an important market share in certain sectors of the economy, the Government is in the process of reforming SOEs to further develop a mixed ownership economy in

China, as required by the Guiding Opinion on Further Deepening the Reform of State-Owned Enterprises. They also noted that SOEs are divided into for-profit entities and public services entities, thus many SOEs function as if they were private enterprises.

3.176. State participation in SOEs varies from 100% ownership to the State acting as another shareholder (Table 3.19). It was reported that at the end of 2011, there were 144,700 state-owned and "state holding" enterprises in China (excluding financial enterprises) with total assets of RMB 85.4 trillion, an equity value of RMB 29.2 trillion, and profits of RMB 2.6 trillion. Their income, profit, and paid taxes accounted for around 40% of all industrial and commercial enterprises of the entire economy.[177] According to the authorities, in May 2015, there were 1,012 "state-owned holding" enterprises listed on the Shanghai and Shenzhen Stock Exchanges with a total equity of 2.67 trillion shares. This accounted for 68.14% of the total equity of all the companies listed on these two stock exchanges.

Table 3.19 Definition / Classification of SOEs in China

State enterprises	Ownership	Type of company / control
State-owned enterprises (Pure SOEs)	100% state ownership	Wholly state-funded firms (non-cooperative firms); state-funded corporative enterprises, or state-funded jointly operated enterprises.
State-controlled enterprises	State-controlled ownership	Absolute state-controlled enterprises (more than 50% state ownership), and ("comparative") state-controlled enterprises: a. less than 50% state ownership but more than other shareholders, or b. the estate owns less shares than other shareholders, but the State obtains control through agreement.
State-invested enterprises	State owns some of the shares of the company	Non-state-control enterprises

Source: National Bureau of Statistics of the People's Republic of China. Viewed at: http://www.stats.gov.cn/statsinfo/auto2072/201311/t20131104_454901.html (in Chinese only).

3.177. The share of output produced by SOEs in the industrial sector has decreased from 28.2% in 1998 to 26.6% in 2010 and 22.3% in 2014.[178] So has the number of manufacturing subsectors in which SOEs had the largest share of revenue. However, SOEs retain a significant share of the market in strategic subsectors such as telecommunication and air transport services where they effectively control the market by holding an 80%-90% share (Table 3.20).[179] There is also a strong presence of SOEs in the financial sector, oil exploration, tobacco-related products, publishing, and the supply of electricity and heating. According the Ministry of Finance (MOF), during January-September 2015, the total revenue of the central and local government-owned and controlled enterprises (excluding financial institutions) amounted to RMB 33.06 trillion. Profits in the transportation, electronics, electric power and chemical industries increased considerably, while profits in the petrochemical, oil and building materials industries decreased somewhat from the previous years; iron and steel, coal and nonferrous metals industries to continued show losses.[180]

Table 3.20 SOEs in China's economy, 2009-14

Sector	2009	2010	2011	2012	2013	2014
Industrial sector[a]						
Number of total enterprises	434,364	452,872	325,609	343,769	369,813	377,888
Number of SOEs[b]	20,510	20,253	17,052	17,851	18,574	18,808
% of SOEs	4.7	4.5	5.2	5.2	5.0	5.0
Total assets (billion RMB)	49,369	59,288	67,580	76,842	87,075	95,678
Total assets of SOEs[b] (billion RMB)	21,574	24,776	28,167	31,209	34,399	37,131
% of SOEs	43.7	41.8	41.7	40.6	39.5	38.8
Total profits (billion RMB)	3,454	5,305	6,140	6,191	6,838	6,815

[177] OECD (2015), *State-Owned Enterprises in the Development Process*, OECD Publishing, Paris. Viewed at: http://dx.doi.org/10.1787/9789264229617-en.
[178] The industrial sector in China includes: mining, manufacturing, and production and supply of electricity, gas, and water (China Statistical Yearbook 2012 and information provided by the authorities).
[179] OECD (2015), *State-Owned Enterprises in the Development Process*, OECD Publishing, Paris. Viewed at: http://dx.doi.org/10.1787/9789264229617-en.
[180] MOF, *The Operation Status of State-owned Enterprises and State-controlled Enterprises* (January - September 2015). Viewed at: http://qys.mof.gov.cn/zhengwuxinxi/qiyeyunxingdongtai/201510/t20151021_1515332.html (in Chinese only).

Sector	2009	2010	2011	2012	2013	2014
Total profits of SOEs[b] (billion RMB)	929	1,474	1,646	1,518	1,592	1,451
% of SOEs	26.9	27.8	26.8	24.5	23.3	21.3
Construction						
Number of enterprises	70,817	71,863	72,280	75,280	78,919	81,141
Number of SOEs	5,009	4,810	4,642	4,602	3,847	3,753
% of SOEs	7.1	6.7	6.4	6.1	4.9	4.6
Gross output value (billion RMB)	7,681	9,603	11,646	13,722	15,931	17,671
Gross output value of SOEs (billion RMB)	1,519	1,815	2,044	2,293	2,616	2,207
% of SOEs	19.8	18.9	17.5	16.7	16.4	12.5

a Including mining, manufacturing, and production and supply of electricity, gas, and water.
b Numbers referring to SOEs including state-holding enterprises.

Source: National Bureau of Statistics China, *Statistical Yearbook (various issues).*

3.178. The number of Central Government-owned Enterprises (excluding financial institutions) under the State-owned Asset Supervision and Administration (SASAC) continued to decline, totalling 106 in 2016 (January).[181] SASAC, as a representative of the Government, is in charge of major decisions such as coordinating investments and appointing top managers in SOEs under its management. The decline in the number of enterprises under SASAC's supervision is due to the ongoing restructuring of SOEs. Estimates that use a broader definition of SOEs, and include companies where there has been disinvestment but the Government still exerts control (for example, by appointing CEOs), show that some 40% of China's GDP is generated by SOEs or entities indirectly owned and controlled by SOEs and their subsidiaries.[182] The State is a majority shareholder in all but one of the 100 largest publicly listed Chinese companies. Of the ten largest SOEs, six are under SASAC's supervision (Table 3.21).

Table 3.21 Ten largest state-owned enterprises, 2013

Company name	Revenue (billion US$)
1. China Petroleum and Chemical Corporation	428
2. China National Petroleum Corporation	409
3. State Grid Corporation of China	289
4. Industrial and Commercial Bank of China[a]	133
5. China Construction Bank Corporation[a]	113
6. Agricultural Bank of China[a]	104
7. Bank of China[a]	98
8. China Mobile Communication Corporation	97
9. China State Construction Engineering	91
10. China National Offshore oil	84

a Not under SASAC.

Source: Fortune Global 500.

3.179. SOEs may receive capital injections from the Government if needed.[183] In 2014, 2,473 companies listed in the Shanghai and the Shenzhen Stock Exchanges received government support amounting to RMB 89.421 billion (up from RMB 75.783 billion in 2012).[184] Of these companies, 154 received more than RMB 100 million in 2014; 105 of which were SOEs. Moreover, amongst the top 10 companies that received support in 2014 (for a total of RMB 17.306 billion) nine were SOEs (Table 3.22).

3.180. The Anti-Monopoly Law (AML) allows SOEs to exercise exclusive activities in sectors considered vital for China's economy and to safeguard national security (Section 3.3.2). Exclusive production and sales rights may also be granted in accordance with Article 7 of the AML.

3.181. SOE reform is an ongoing process in China; as a result, some previously protected sectors have gradually opened up and increased productivity. Despite this, SOEs continue to play an important role in certain sectors such as technology, natural resources, energy, and transport.

[181] The number of central-level non-financial SOEs under SASAC's administration has continued to decline from 196 (2003) to 159 (2006), 129 (Dec. 2009), and 112 (Feb. 2015) (For a full list of these enterprises, see: http://www.sasac.gov.cn/n86114/n86137/c1725422/content.html).
[182] Randau H.R. and Mendiskaya O. (2015), *China Business 2.0, Management for Professionals*, Springer International Publishing, Switzerland.
[183] WTO (2012), *Trade Policy Review – China*, Geneva.
[184] SINA Corporation online information. Viewed at: http://finance.sina.com.cn/stock/s/20150430/005922077076.shtml.

According to the OECD, SOEs are greater contributors to corporate tax collection and social-security funds than similar private firms.[185]

Table 3.22 Top 10 companies listed in SSE/SZSE that received public support in 2014

	Company	Government grant (RMB billion)	Industry	State-owned
1	PetroChina	3.93	Petroleum	Yes
2	China Petroleum & Chemical Corp.	3.17	Petroleum	Yes
3	SAIC Motor Corp. Ltd	2.67	Automobile	Yes
4	China COSCO Holdings Co Ltd	1.74	Shipping	Yes
5	Metallurgical Corp. of China Ltd	1.07	Engineering	Yes
6	Air China Ltd	1.06	Airline	Yes
7	TCL Corp.	1.01	Electronics	No
8	Chongqing Iron & Steel Co Ltd	0.92	Steel	Yes
9	Huaneng Power International Inc.	0.9	Power generation	Yes
10	BOE Technology Group Co Ltd	0.83	Semiconductor	Yes

Source: WTO Secretariat, based on data from companies' annual reports.

3.182. In 2015, new guidelines were issued to reform SOEs.[186] The objective is to improve the performance of state assets. Both the guidelines, as well as the Recommendations for the Development of the 13th Five-year Plan, refer to the need to reform SOEs so as to make them more profit-oriented and call for a shift to mixed ownership, while keeping government control. The Recommendations mention the need to restructure SOEs and to guide state-owned assets towards industries linked to national security, and at the same time encourage the private sector to participate in sectors dominated by SOEs and to invest in SOEs.[187]

3.3.6 Government procurement

3.183. According to data provided by the Chinese authorities, the total value of government procurement increased to RMB 1.73 trillion in 2014, up from RMB 1.64 trillion in 2013 (Table 3.23). Procurement by local entities accounted for 95.2% of the total value of government procurement in 2014, with procurement by the Central Government accounting for only 4.8%.[188] Government procurement in 2014 accounted for about 2.7% of GDP, down from 2.8% in 2013 and up from 2.6% in 2012 and 2.1% in 2011. These figures cover only procurement by government departments, institutions, and public organizations using regular budget funds, for goods, construction, and services listed in the Centralized Procurement Catalogue or above certain thresholds for procurement using other financial resources. The figures do not include procurement by SOEs, which according to the Government Procurement Law does not fall under the definition of government procurement.

Table 3.23 Government procurement by type of purchase, 2011-14

(RMB billion)

	2011	2012	2013	2014
TOTAL	**1,133.3**	**1,397.8**	**1,638.1**	**1,730.5**
Goods	**383.0**	**439.0**	**492.1**	**523.0**
Central government entities	35.8	40.1	39.6	35.8
Local government entities	347.2	398.9	452.5	487.2
Construction and engineering services	**661.4**	**837.4**	**992.6**	**1,014.1**
Central government entities	23.0	25.5	33	37.9
Local government entities	638.4	811.9	959.6	976.2
Other services	**88.9**	**121.4**	**153.4**	**193.4**
Central government entities	9.7	13.0	14.3	9.7
Local government entities	79.2	108.4	139.1	183.7
Total procurement by the Central Government	**68.5**	**78.6**	**86.9**	**83.4**
Total procurement by local government entities	**1,064.8**	**1,319.2**	**1,551.2**	**1,647.1**

Source: Information provided by the Chinese authorities.

[185] OECD (2015), "SOEs in China's economic development", in *State-Owned Enterprises in the Development Process*, OECD Publishing, Paris. Viewed at: http://dx.doi.org/10.1787/9789264229617-8-en.

[186] The Guiding Opinions of CPC Central Committee and State Council on Deepening the Reform of SOEs. Viewed at: http://www.sasac.gov.cn/n85881/n85921/c2051975/content.html (in Chinese only).

[187] The Guiding Opinions on Encouraging and Regulating Introducing Non-national Capital into SOE Investment Projects; and *EUROBiz*, "Balancing Reform and Growth: China's 13th Five-Year Plan", 4 December 2015. Viewed at: http://www.eurobiz.com.cn/balancing-reform-and-growth-chinas-13th-five-year-plan/.

[188] The top 10 local procuring entities are the provinces of Guangdong, Jiangsu, Shandong, Zhejiang, Henan, Guangxi, Anhui, Chongqing, Shanghai and Jiangxi.

3.184. China has introduced some changes to its legislative and regulatory regime for government procurement since the last Review. 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) was amended on 31 August 2014 (effective 31 October 2014), and the Implementing Regulations of the Government Procurement Law (State Council Decree No. 658 of 30 January 2015) came into effect in early 2015. New regulations were also introduced in 2014 for both competitive bidding and non-competitive bidding. Other procurement legislation includes the Law of the People's Republic of China on Tendering and Bidding and its Implementation Regulations, which govern the procurement of construction projects and related goods and services when the tendering approach is used. Laws with a possible impact on government procurement include the Budget Law, the Contract Law, the Product Quality Law, the Price Law, and the AML.

3.185. The Government Procurement Law covers purchases undertaken with regular budget 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.

3.186. Procurement at the various levels of government can be centralized or decentralized, although the vast majority of procurement is centralized. Purchases of items listed in the Centralized Procurement Catalogue must be carried out by centralized procurement agencies. The Procurement Law mandates that centralized procurement agencies procure quality goods and services, at a lower-than-average-for-the-market price.[189] Decentralized procurement of items not listed in the Catalogue, but with a value above a certain threshold, which is specified by governments at various levels, may be carried out by the procuring agency itself, or by entrusting it to agent procurement bodies. In this case, the procurement standards are stipulated by the people's governments at above provincial levels. Centralized procurement accounted for 84.8% of government procurement in 2014 (RMB 1.47 trillion), down from 86% in 2013 (RMB 1.4 trillion).

3.187. The Government Procurement Law includes a "buy-domestic" (Article 10) provision, which was not modified by the 2014 amendment. As a result, the Government must procure domestic goods, construction projects and services, with certain exceptions: i) when the goods, construction, or services required are unavailable in China or, if available, cannot be procured on reasonable commercial terms; ii) when the goods, construction, and services are procured for use abroad; or iii) when otherwise provided for by other laws and administrative regulations. There are no criteria specified as to what constitutes domestic goods or provisions on local content. To observations made by Members during its last review, China stated that in practice the Chinese government applies non-discriminatory and equal treatment in government procurement to products manufactured by domestic-funded and foreign-funded enterprises within the territory of China, and that it is common for the government to purchase foreign products, but that no statistics in this respect were available. In addition, article 8 of MOF Order No. 18 of 11 August 2004 states that the suppliers participating in bids to supply goods or services must be domestic suppliers who supply domestic goods or services. Domestic-sourcing legal requirements would have to be modified for procurement above GPA thresholds for China to join the GPA Agreement.

3.188. Despite the references in the Law to "buy-domestic", the Implementing Regulations of the Government Procurement Law do not make a distinction between foreign and domestic suppliers. Additionally, foreign suppliers may participate in tenders and invitations to bid concerning goods and services if other laws and administrative regulations so prescribe. Imports used for procurement purposes continue to require approval from the Ministry of Finance, or its corresponding departments at the local level. Importation is governed by the Administrative Measures for Government Procurement of Imported Products, which set out the conditions for government procurement of imported products. There are no statistics related to the percentage of procured imported goods and services in total procurement.

3.189. The Implementing Regulations of the Government Procurement Law provide the details on government procurement procedures. There are currently six methods for the government

[189] The authorities have indicated that the Centralized Procurement Catalogue comprises items with unified technological and service standards. The purpose of centralized procurement is to reduce the cost through large-scale procurement.

procurement of goods, services and works, compared to five in the previous review: public tendering, selective tendering, competitive negotiations, request for quotations (price enquiry), competitive consultations and single-source procurement. The competitive consultation method was introduced in 2014. The six methods may be used both at the central and local levels. The regulations for non-bidding procurement measures, that is, competitive negotiations, request for quotations and single source procurement, are contained in the Measures for the Administration of Non-Bidding Government Procurement (MOF Order No. 74) implemented on 1 February 2014.

3.190. Public tendering is the main procurement method; it is required for procurement of items exceeding the prescribed procurement thresholds. The thresholds for central government procurement for 2014-2015 were RMB 1.2 million for goods and services, and RMB 2 million 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. Approval of the Finance Department of the relevant government at or above the level of cities with districts 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 five procurement methods specified in the Law. Procuring entities are forbidden from breaking procurement up into parts to avoid recourse to public tendering by being below the mandatory threshold. If procurement takes place through public tendering, the deadline for the submission of bids must be at least 20 days from the date of issuance of the tender. The tender procedure is cancelled when there are less than three suppliers meeting the qualifications required or the prices offered exceed the procurement budget.

3.191. The selective tendering method may be chosen when the goods or services to be procured are special and can only be obtained 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]

3.192. Recourse to the third bidding method, competitive negotiation, may be made if, after attempting a tendering process, no supplier has submitted an offer or the offers have been deemed inadequate, or when a second tendering process has been attempted but has failed. It can also be used in cases of urgency, due to the technical complexity or special nature of the goods and services procured, or when the total value of the goods or services to be procured cannot be determined in advance. A negotiation team must choose no fewer than three suppliers from among all qualified suppliers to participate in the negotiation. When the negotiation is concluded, the negotiation team shall request all participating suppliers to quote their final offering prices within a specified time limit. The supplier meeting the procurement needs at the lowest price among the prices quoted for goods of equal quality and for equal services, is chosen.

3.193. The new competitive consultations procurement method, regulated by the Interim Measures for Administration of Competitive Consultation Procurement Method in Government Procurement (promulgated by the MOF on 31 December 2014), consists in the negotiation between a consultation team set up by the procuring party and qualified suppliers chosen by the team upon evaluation. This method can be applied for: the procurement of services; procurement for which detailed specifications or specific requirements cannot be determined due to their technical complexity or special nature; procurement for which the price cannot be calculated in advance; the procurement of artistic works, patents, and proprietary technologies; scientific research projects for which market competition is not sufficient; or construction projects not subject to bidding under the Law on Bid Invitation and Bidding and its implementing regulations. At least three suppliers must be invited to participate in the competitive consultation. Information regarding the procurement must be announced via media designated by the relevant finance department of the government at or above the provincial level.[191] Offers must be evaluated using an overall score method, in which the price score has a weight of between 30% and 60%. The price score of each offer is calculated taking the lowest price as the benchmark price for the

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

[191] CaiKu [2014] No. 214, The Interim Measures for Administration of Competitive Consultation Procurement Method in Government Procurement. Viewed at: http://gks.mof.gov.cn/zhengfuxinxi/guizhangzhidu/201501/t20150120_1182425.html (in Chinese Only).

consultation; the price score of this offer is the full score. The scores of the prices offered by other suppliers are computed according to a formula.[192]

3.194. The request for quotations or price inquiry method may be used for the procurement of goods with specifications and standards that are uniform and which are readily available on the spot at prices that fluctuate very little. A price inquiry team with a similar composition as for the competitive negotiation method is set up and must issue a price inquiry notice for the procurement of goods to qualified suppliers, requiring them to quote prices that cannot be changed. No less than three suppliers from all qualified suppliers must be chosen. The supplier offering the lowest price among the prices quoted for goods of equal quality and equal services must be awarded the bid.

3.195. Recourse to the single-source procurement method may be made 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 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.

3.196. The procurement method most widely used is public tendering, which accounted for 84.5% of total procurement in 2014; requests for quotations accounted for 3.7% of the total; competitive negotiations for 4.2%; selective tendering for 2.6%; and single-source procurement for 3% (Table 3.24). The competitive consultations method was used only starting in 2015; there was no available data regarding its use yet as at late 2015. In the context of its previous Review, China stated that, in the case of SOEs, procurement is decided solely by them, generally having recourse to public tendering.[193]

Table 3.24 Government procurement by procurement method, 2012-14

(RMB billion)

Year	Procurement method					
	Total	Public tendering	Selective tendering	Competitive negotiations	Request for quotations	Single-source procurement
2012	1,397.8	1,170.6	38.6	72.3	67.9	48.4
2013	1,638.1	1,364.6	69.4	71.6	76.1	56.5
2014	1,730.5	1,462.1	45.8	72.1	63.5	52.2

Source: Information provided by the Chinese authorities.

3.197. In accordance with the 2015 Implementing Regulations, two different bid evaluation methods may be used: the lowest evaluated bid price method and the overall-score method, based on evaluation scores of quantitative indicators. If the lowest-evaluated bid price method is used, the supplier whose bid meets all the substantive requirements specified in the bidding documents and whose bid price is the lowest wins the bid. Projects of goods and services subject to unified technical, service and other standards must be subject to the evaluated bid price method. Other procurement may take place using either of the two methods. The overall-score method refers to the bid evaluation method where the supplier who meets all the substantive requirements of the bidding documents and whose overall evaluation score is the highest is the bid winner, as described above for the competitive consultations method. The overall score is calculated using weights for each of the evaluation factors set.

3.198. The 2015 Implementing Regulations introduced provisions to step up governance in procurement. They require the purchaser to make the budget of the relevant procurement project public. Bidding documents must be prepared according to the standard form set by the Finance Department of the State Council. They must include the commercial conditions and needs of the procurement project, the qualification conditions for bidders, requirements on bid submission and quotation, bid evaluation methods and criteria, and the text of the contract to be signed. If the

[192] The formula is as follows: score assigned to the quotation for consultation = (benchmark price for consultation/ final quotation for consultation) × price weight × 100 (Interim Measures for the Administration of Competitive Consultation in Government Procurement).

[193] WTO document WT/TPR/M/300/Add.1, 9 September 2014, p. 64.

bidding documents of a procurement project require bidders to pay a bid submission bond, this must not exceed 2% of the budget of the procurement project.

3.199. Procuring entities must announce government procurement and bidding information in media designated by the Ministry of Finance in "a timely, comprehensive and standard manner" to ensure transparency and fair competition. The Circular of the Ministry of Finance on Making Efforts to Accomplish the Work of Government Procurement Information Disclosure (Cai Ku [2015] No. 135) sets out the scope, contents and requirements for the announcement. The result of the bid must also be announced by the purchaser or procurement agency within two working days after determining the result of the bid. A notice of award of bid or deal closing must be issued.

3.200. Bidders may question the procuring agency's decision, complain to the Government Procurement Division of the Ministry of Finance, or bring the case to court. In 2014, the finance authorities at various levels all over China accepted 1,337 government procurement complaints raised by suppliers, up from 1,079 complaints reported in 2013. The authorities noted that the finance authorities at various levels have continued to improve the complaint handling mechanism since the last Review, establishing a multi-departmental cooperation and coordination mechanism and an offence-disclosing mechanism.

3.201. To improve efficiency in government procurement, China promotes the use of information technology and the gradual adoption of e-procurement, as of procurement. The authorities have noted that China is also promoting the standardization of government procurement, as well as stepping up efforts to exercise supervision and inspection, so as to reduce the risk of collusion in the process of government procurement.

3.202. The Chinese authorities have stated that government procurement has become increasingly more transparent since the last review. They noted that, firstly the procurement process has become more open: in 2014, 84.5% of all government procurement adopted the approach of public tendering. Secondly, an information disclosure mechanism covering the whole process of government procurement has been established, leading to the publishing of over 930,000 announcements related to government procurement information in 2014, among which 480,000 were for procurement demands, and 440,000 were for bidding results and successful dealmaking. Thirdly, information and records on material offences and dishonesty of procurement agencies, suppliers and review experts has been made public.

3.203. China has not signed any bilateral or regional agreements on market access for government procurement to date.[194]

3.204. China is an observer to the GPA. China applied for accession to the GPA on 28 December 2007 and submitted its initial offer at the same time. Discussions dedicated to China's accession took place on multiple occasions during the 2008-2015 period. China's fifth revised offer was submitted on 23 December 2014.[195] The offer covers entities and projects of all types and makes improvements in the areas of key concern to various parties. For example, more local entities have been added, all construction projects covered, and SOEs included for the first time in the offer.

3.3.7 Intellectual property rights

3.3.7.1 Overview and institutional developments

3.205. The responsibility for organizing the implementation of the National Intellectual Property Strategy lies with the Inter-Ministerial Joint Conference for Implementation of the National Intellectual Property Strategy, established in October 2008. The Conference is convened by the Commissioner of the State Intellectual Property Office (SIPO) and its tasks are executed by the Office of the Conference, situated in SIPO.[196] The Conference issues a Promotion Plan for the Implementation of the National Intellectual Property Strategy annually, with specific actions to be

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

[195] WTO document GPA/ACC/CHN/45, 5 January 2015.

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

carried out during the year in question to attain the goals of the strategy. In 2014, the strategic themes/actions identified were grouped under seven main goals:

- *Raising Intellectual Property (IP) Creation Quality.* The aim is to improve patent application quality by strengthening supervision, reinforcing the examination process and raising efficiency. To this end, the authorities are in the process of implementing the Opinions on further improving the Quality of Patent Applications issued in December 2013. With respect to trademarks, the aim is to ensure that the trademark examination pendency is below nine months and the disagreement review pendency period below 12 months. In copyright, with a view to improving the registration system and services in general, the National Copyright Administration has been implementing the Notice on Further Standardizing Works Registration Procedures and Other Relevant Work issued in October 2011.

- *Increasing the Effectiveness of IP Utilization.* The aims are to strengthen the connection between IP policies and industrial and regional policies and to promote IP in strategic emerging industries.

- *Improving IP Management and Public Services.* The improvement of public services is to be achieved by promoting the establishment of a public IP information service platform and an IP appraisal mechanism, to raise the capabilities of enterprises, universities and institutes.

- *Raising the Effectiveness of IP Protection.* The aim is to improve IP protection by revising the Copyright Law, the Patent Law, and the Implementation Regulations of the Trademark Law, completing the drafting of the Interpretation on Several Issues Concerning the Application of Law in the Trial of Patent Infringement Disputes, and by issuing regulations improving the long-term mechanism for IP protection. IP enforcement is also to be enhanced by improving IP administrative and judicial protection and the link between them, as well as by strengthening IP protection in the cyber environment, and conducting IP-related anti-trust investigations.

- *Promoting IP International Exchange.* This is to be done by perfecting the processing and exchange of IP information, participating in the establishment of an international IP system, and promoting cooperation with international organizations and major countries.

- *Promoting Fundamental IP Capabilities*. To be done by fostering the development of an IP service industry.

- *Achieving Better Organization and Implementation of the IP strategy.* The aim is to strengthen overall planning for the implementation of an IP strategy and to improve the Inter-Ministerial Joint Conference system.[197]

3.206. During the period under review, China has implemented some changes to its IPR regulatory regime. This has been done by amendments to regulations, as well as departmental rules. Some of the main changes are related to copyright and patent examinations (see below).

3.207. China is a member of the World Intellectual Property Organization (WIPO), and a contracting party to various international conventions and treaties (Table 3.25). During the period under review, China ratified the Beijing Treaty on Audiovisual Performances (9 July 2014). The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (Marrakesh VIP Treaty) signed in June 2013, had not yet been ratified as at end-2015. China has continued to increase the number of IPR protection applications through international treaties, particularly in the area of patents. In 2014, Chinese citizens filed 26,196 applications through the Patent Cooperation Treaty (PCT) system;

[197] SIPO online information. Viewed at: http://english.sipo.gov.cn/laws/.

52,101 trademark applications were filed through the Madrid system in 2013 and 60,205 in 2015.[198]

Table 3.25 China's membership of international intellectual property rights conventions, 2015

Convention	Status	Date of accession
Agreement on Trade-Related Aspects of Intellectual Property Rights	In force	11 December 2001
Beijing Treaty on Audiovisual Performances	Ratified	
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	Signed	
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	Signed	
Strasbourg Agreement Concerning the International Patent Classification	In force	19 June 1997
Trademark Law Treaty (TLT)	Signed	
Universal Copyright Convention	In force	30 October 1992
Washington Treaty on Intellectual Property in Respect of Integrated Circuits	Signed	
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.

3.3.7.2 Industrial property

3.3.7.2.1 Patents

3.208. SIPO, under the State Council, is responsible for receiving and processing patent applications and granting patents. Local IPR administrative offices deal with hearing and settling disputes with respect to patents.

3.209. The Patent Law, last amended in 2008, and the Rules for Implementation of the Patent Law, last amended in 2010, regulate patent protection for inventions, utility models, and industrial designs.[199] Other regulations dealing with patents include the Measures for the Filing of Patent Exploitation Licence Contracts; the Measures for Compulsory Licensing for Patent Implementation; the SIPO Rules on Administrative Reconsideration; the Administrative Measures on Prioritized Examination of Invention Patent Applications; and the Measures for Patent Administrative Enforcement.

3.210. The period of patent protection is 20 years from the date of filing for inventions, and 10 years from filing for utility models and industrial designs. Patent applications are made to SIPO. Invention patent applications must be published promptly after the expiration of 18 months from the date of filing (or the priority date, if priority is claimed). A request for substantive examination must be submitted within three years of the date of filing (or the priority date), failing which the application is considered to have been withdrawn. Invention patent rights are provisionally protected from the date of publication to the date of granting the patent. The average time required to complete a substantive examination for an invention patent was 21.8 months in 2014, compared with 22.6 months in 2012.

[198] WIPO online statistics. Viewed at: http://www.wipo.int/ipstats/en/statistics/country_profile/profile.jsp?code=CN; and information provided by the authorities.

[199] WTO documents IP/N/1/CHN/3, 15 December 2010; IP/N/1/CHN/P/2, 21 December 2010; IP/N/1/CHN/4, 24 August 2011; and IP/N/1/CHN/P/3, 26 August 2011.

3.211. Decisions regarding 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 Commissioner. 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 2014, the Patent Re-examination Board accepted 24,452 applications for re-examination, 20,393 of which were concluded.

3.212. Foreign or international patent applications 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, are subject to a preliminary national-interest clearance.[200] A confidentiality examination must be conducted before an application can be filed. The concept of substantial content is defined on a case-by-case basis. There are also some limitations regarding the licensing of IPRs obtained from major national projects, which 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.

3.213. Compulsory licences of patents 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, refused the requests for authorization to exploit its patents on reasonable conditions, and has failed to sufficiently exploit the patent rights for three years or uses the rights in a manner that eliminates or restricts competition through the abuse of the IPR granted by the patent. Insufficient exploitation of a patent is understood to mean that the exploitation by the right holder or licensee fails to satisfy the domestic demand for the patented product or patented know-how. A compulsory licence may also be granted under certain circumstances for patented pharmaceutical products so as to give effect to the WTO Decision on Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health.[201]

3.214. Requests for a compulsory licence must be submitted to SIPO who notifies the patent right holders in writing. The latter must respond to SIPO with comments within a specified period. When the compulsory licence is requested due to non-exploitation of the licence or an act of monopoly, SIPO may conduct open hearings upon request by one of the parties. SIPO's decision to grant or terminate a compulsory licence may be challenged in court within three months of being received by the parties. No compulsory licences were granted from 2013 to 2015. In fact, China has not granted any compulsory licences since the entry into force of the Patent Law. Parallel imports of patented goods are allowed, in accordance with Article 69 of the Patent Law.

3.215. During the period under review, China introduced some regulatory amendments with respect to patents. SIPO amended the Patent Examination Guidelines to allow granting design patents of graphical user interface products. The amended Patent Examination Guidelines came into force on 1 May 2014.[202] SIPO also amended the Measures for the Deposit of Biological Materials for the Purposes of Patent Procedures in order to improve the deposit system of biological materials for the purposes of patent procedures and to facilitate technological innovation and the practical application of inventions in the biological field. The amendment came into force on 1 March 2015.[203] SIPO amended the Measures for the Administration of the Patent Agency for the purposes of improving the patent agency system and strengthening its administrative supervision. This amendment came into force on 1 May 2015.[204] SIPO also issued the amended Measures for Patent Administrative Law Enforcement in order to address outstanding issues in patent protection practices in China, better guiding local IP offices to strengthen and standardize

[200] Major national projects have been identified in the National Medium- and Long-Term Programme for Science and Technology Development (2006) in the areas of information, manufacturing, bio-pharmaceuticals, energy, resources and environment, aimed at promoting social and economic development.

[201] Articles 22 and 33 of the Measures for Exercising Patent Compulsory Licences regulate the administration of compulsory licensing of patented drugs.

[202] Decision on Revising Patent Examination Guidelines, SIPO Decree [2014] No. 68. Viewed at: http://www.sipo.gov.cn/zwgg/jl/201403/t20140314_916952.html (in Chinese only).

[203] Measures for the Deposit of Biological Material, SIPO Decree [2015] No. 69. Viewed at: http://www.sipo.gov.cn/zwgg/jl/201501/t20150123_1065907.html (in Chinese only).

[204] Measures for the Administration of Patent Agency, SIPO Decree [2015] No. 70. Viewed at: http://www.sipo.gov.cn/zwgg/jl/201504/t20150430_1111398.html (in Chinese only).

patent administrative law enforcement. The amended Measures for Patent Administrative Law Enforcement came into force on 1 July 2015.[205]

3.216. During the period under review, patent applications and grants continued to increase rapidly. In 2015, Chinese citizens filed 968,251 patent applications for inventions, 1,119,714 applications for utility models and 551,481 for industrial designs, compared with 801,135, 861,053, and 548,428 applications, respectively, in 2014. In 2015, the number of PCT applications submitted by Chinese citizens reached 30,548, up from 26,169 in 2014 (Table 3.26).

Table 3.26 Intellectual property rights applications and grants, 2013-15

	2013	2014	2015
Patent applications (inventions)			
Resident	704,936	801,135	968,251
Non-resident	120,200	127,042	133,613
International applications PCT system	22,924	26,169	30,548
Utility model applications			
Resident	885,226	861,053	1,119,714
Non-resident	7,136	7,458	7,863
Industrial design applications			
Resident	644,398	548,428	551,481
Non-resident	15,165	16,127	17,578
Patents (invention) granted			
Resident	143,535	162,680	263,436
Non-resident	64,153	70,548	95,880
Industrial design registrations			
Resident	398,670	346,751	464,807
Non-resident	13,797	14,825	17,852
Trademark applications			
Resident	1,733,361	2,139,973	2,112,353[a]
Non-resident	95,177	93,284	94,827[a]
Madrid system	53,008	52,101	48,170[a]
Trademark registration			
Resident	909,541	1,242,840	1,795,864
Non-resident	59,496	86,394	85,118

a October 2015.

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.

3.217. According to information from WIPO, there were 1,033,908 patents in force in 2013. With respect to patent applications by top fields of technology, the main fields in the 2000-2014 period were: digital communication (6.72% of the total); electrical machinery (6.69%), computer technology (6.22%); measurement material (5.82%); pharmaceuticals (5.49%); and metallurgy (4.49%), among others. Applications were spread widely across the different fields of technology, as witnessed by the fact that no individual field reaches 10% of the total and the category "others" represented 47.72% of the total.[206]

3.3.7.2.2 Trademarks

3.218. The State Trademark Office (TMO), under SAIC, has responsibility for the examination of applications, and the registration and administration of trademarks. Local enforcement authorities are responsible for the administration of trademarks at the provincial level and below. The settlement of disputes regarding trademarks is the responsibility of the Trademark Review and Adjudication Board, which 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.

[205] Decision on Revising the Measures for Patent Administrative Law Enforcement, SIPO Decree [2015] 71. Viewed at: http://www.sipo.gov.cn/zwgg/jl/201506/t20150601_1125506.html (in Chinese only).

[206] WIPO online information. Viewed at: http://www.wipo.int/ipstats/en/statistics/country_profile/countries/cn.html.

3.219. The Trademark Law, its Implementing Regulations and various rules issued by SAIC, nform the main legislative and regulatory framework regarding trademark registration and protection.[207] The Trademark Law was amended in August 2013 and the amendments entered into force in May 2014. They include: the extension of acceptance of protection to sound marks; the adoption of a "one-trademark-registered-for-multiple-class" system for registration, and of online electronic applications; 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. The Regulations on the Implementation of the Trademark Law were also revised, in April 2014. To adapt to the amendments to the Trademark Law and its Regulations, the Rules for Trademark Review and Adjudication were revised for the third time in accordance with SAIC No. 65 of 28 May 2014. On 3 July 2014, the SAIC issued the Provisions on the Determination and Protection of Well-Known Trademarks (SAIC [2014] Announcement No. 66).

3.220. The Trademark Law protects the exclusive right to use a trademark registered in China upon TMO approval. An application for trademark registration filed in China by a foreign applicant or a foreign enterprise is dealt with in accordance with the agreement signed between the native country and China or the international treaty acceded to by the native country and China, or with the principle of reciprocity. The term of protection for trademarks is 10 years, renewable for consecutive periods of 10 years, indefinitely. Foreign nationals or foreign enterprises with habitual residence or places of business in China can submit their applications for trademark registrations either directly or through a legally registered trademark agency; foreign nationals or foreign enterprises without habitual residence or places of business in China must entrust their applications for trademark registrations to a legally registered trademark agency to apply for trademark registrations.

3.221. 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. If the TMO refuses to register a trademark, the applicant has the right to appeal the decision before the Board within 15 days of receipt of the notification of the decision. If the Board upholds the TMO's decision, the applicant may take the case to court within 30 days of notification.

3.222. The recent review of the Trademark Law led to the issue of a Judicial Interpretation of the Supreme People's Court on the Jurisdiction of Trademark Cases and Application of Laws after Implementation of the Amendment Decisions of Trademark Law, which came into force on 1 May 2014.[208] The Interpretation identifies 13 types of cases involving trademarks that can be brought to court. These include appeals against review decisions or rulings made by the Trademark Review and Adjudication Board, appeals against specific administrative acts relating to trademarks made by the SAIC, and other trademark disputes cases. Depending on their nature, cases may be heard by the Beijing Municipal Intermediate People's Court, by intermediate people's courts with regional jurisdiction over the case.

3.223. SAIC's Provisions on the Determination and Protection of Well-Known Trademarks[209], promulgated on 3 July 2014, define "well-known brands" as trademarks that are well known to the relevant public in China. They replaced SAIC's Provisions on Recognition and Protection of Well-known Brands, promulgated in April 2003. Well-known trademarks are recognized on a case-by-case basis, and are subject to the principle of passive protection. By the end of 2015, the SAIC had recognized 6,942 trademarks as well-known brands, 237 of which were owned by foreign-funded enterprises (excluding those of Hong Kong, China; Macao, China; and Chinese Taipei).

3.224. Non-use of a trademark may lead to its revocation. In accordance with the Trademark Law, the TMO has the right to revoke any trademarks that are not used for three consecutive years without any justified reasons.

[207] The rules related to trademark administration in China. Viewed at: http://sbj.saic.gov.cn. The Implementing Regulations of the Trademark Law, State Council Decree No. 651. Viewed at: http://www.gov.cn/zhengce/2014-04/30/content_2670953.htm (in Chinese only).
[208] The text of the Judicial Interpretation. Viewed at: http://www.chinacourt.org/law/detail/2014/03/id/147702.shtml (in Chinese only).
[209] SAIC Announcement [2014] No.66. Viewed at: http://sbj.saic.gov.cn/sbyw/201407/t20140711_146664.html (in Chinese only).

3.225. Trademark protection in e-commerce is granted through a number of circulars or other type of measures. 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, aims at facilitating the procedures for cross-provincial investigations regarding IPR violations through the Internet. The newly-amended Measures on Administration of Trading on the Internet, promulgated by SAIC in January 2014, makes the operator of an Internet trading platform responsible for trademark infringement, and liable for any damage caused by misuse of the platform. A judicial interpretation 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 that facilitate online infringement will be held jointly liable for that conduct.

3.226. China currently has no rules on parallel imports in the fields of trademarks or copyright.

3.227. In the course of the previous review, answering questions posed by Members, China noted that SAIC's Trademark Department was working on the release of a trademark registration automated system (Phase III).[210] By the end of 2015, the development of Phase III had been completed, and work was ongoing on the optimization and improvement of the system and the development of additional functions.

3.3.7.2.3 Geographical indications

3.228. In the absence of specific legislation for geographical indications (GIs) in China, their registration and protection are covered by the Trademark Law and its Implementing Regulations, and by other laws and regulations. The State Commission Office of Public Sector Reform's Opinions on Improving the Geographical Indications Protection System and Mechanism (SCOPSR [2011] No. 26), calls for setting up a special GI protection regime and encourages the drafting of GI protection laws, regulations and comprehensive policies. The authorities noted that, with a view to implementing the Opinions, in early 2016 the SAIC was soliciting opinions from various departments to discuss the establishment of a joint recognition mechanism for GIs. Currently, there are three government bodies engaged in work related to GIs: the SAIC; AQSIQ and the Ministry of Agriculture. A party seeking GI protection can voluntarily choose under which governmental agency(ies) to register its GIs. The SAIC protects GIs in the form of collective trademarks and certification marks registered with the TMO under the same procedure as for trademarks. The protection of national GI products accorded by AQSIQ is governed by AQSIQ Decree No. 78 of 2005 (Provisions on the Protection of Geographical Indication Products). The protection accorded to the GIs of agricultural products is guided by the Measures on the Administration of Agricultural Product Geographical Indications (MOA Decree No. 11 of 2008). If infringements of GIs occur, the interests of the affected party are protected pursuant to the relevant laws and regulations under which its GIs are registered. If a single GI is registered for protection with different agencies, each agency plays its due regulatory role according to its respective mandate.

3.229. GIs from foreign countries must be registered in China to be protected. If the right holder decides to register its GI with the TMO, the protection period granted will be the same as for other trademarks, that is, 10 years, renewable for successive periods of 10 years, indefinitely. Once registered with the MOA and AQSIQ, the GIs are protected permanently.

3.230. Under the China-EU Project of Mutual Recognition and Protection of the "10 plus 10" geographical indications, launched in 2007, ten GIs of each of the parties are protected in the other. During the period under review, AQSIQ promulgated on 25 May 2015 the Guiding Opinions on Promoting the International Application of the China-EU "10 plus 10" Internationally Mutually Protected Chinese Geographical Indications (Zhi Jian Ban Ke [2015] No. 482), with the aim of pushing forward the international application of GIs and promoting the use of special marks for protected Chinese GIs in overseas markets. AQSIQ also formulated the Measures on the Protection of Overseas Geographical Indication Products in 2015.

[210] WTO document WT/TPR/M/300, 9 September 2014.

3.3.7.3 Copyright and related rights

3.231. In China, copyright is regulated in accordance with the Copyright Law of the People's Republic of China (amended in 2010) and relevant regulations, which include the Regulations for the Implementation of Copyright Law of the People's Republic of China (amended on 30 January 2013), the Regulations for the Protection of Computer Software, the Regulations on Collective Copyright Management, the Regulations on the Protection of the Right of Dissemination via Information Network, and the Interim Measures for the Payment of Remuneration for the Broadcast of Sound Recordings by Radio and Television Stations. Copyright covers: authorship; revision; integrity; reproduction; distribution; rental; exhibition; performance; presentation; broadcasting; network communication; cinematography; adaptation; translation; compilation; and other rights held by copyright owners. Copyright owners or owners of related rights may authorize collective non-profit copyright administration organizations to exercise their rights.

3.232. Copyright registration and enforcement takes place 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.

3.233. The term of copyright protection for natural persons is life plus 50 years.[211] Works of a legal entity or other organization, or works created in the course of employment and the copyright of which is held by a legal entity or other organization, are also protected by copyright for 50 years, as well as cinematographic and photographic works. 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.[212] The term of protection for typographical designs is 10 years.

3.234. Registration is voluntary and is not a requirement for copyright protection. The works of Chinese citizens, legal entities or other organizations enjoy automatic copyright protection, whether published or not. Foreigners whose works are first published in the territory of China also enjoy automatic copyright protection. For works published abroad, those 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 in their own countries. 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.

3.235. The Law provides for copyright licensing and the transfer of rights. Licensing can be exclusive or non-exclusive. Parallel imports are not covered in the current copyright legislation.

3.236. The breaching of copyright is punished with fines, which are calculated based either on the illegal operational proceeds or on the value of products embodying the copyright breach. Where the fines are calculated based on the illegal operation proceeds, the fine is less than RMB 250,000 if the illegal operation proceeds are less than RMB 50,000 and it is between 100% and 500% of the illegal operational proceeds if they exceed RMB 50,000. Where the fines are calculated based on the value of products, the amount of the fines will be between 100% and 500% of the value of the products. In this case, the ceiling limit of the fines is RMB 250,000, except for computer software, where it is RMB 200,000.[213]

3.237. The Interim Measures for the Payment of Remuneration by Radio and Television Stations for Broadcasting Sound Recordings, implemented on 1 January 2010, mandate that broadcasting organizations pay remuneration to copyright owners for broadcasting musical works. The methods

[211] In the case of more than one right holder, protection is granted for 50 years after the death of the last surviving right holder.

[212] Articles 39, 42 and 45 of the Copyright Law (revised in 2010).

[213] State Council Orders No. 632, 633 and 634, 30 January 2013 (Decisions on Amending the Regulations for Protection of Computer Software, Decision Amending the Implementing Regulations of the Copyright Law and Decision Amending the Regulations on the Protection of the Right to Network Dissemination of Information, respectively).

and amounts of such payment must be determined in agreement with the copyright collective administration organization. During the period under review, the NCAC and the NDRC jointly promulgated the Measures for Paying Remuneration for the Use of Written Works on 23 September 2014 (Decree of the National Copyright Administration and the National Development and Reform Commission, No. 11), which were implemented on 1 November 2014.[214] In addition, the NCAC formulated a number of normative documents such as: the Implementing Rules on the Disclosure of the Information about Administrative Penalty Cases Concerning the Sales of Fake and Shoddy Products and Infringement of Intellectual Property Rights by the Press and Publication (Copyright) Administration and Law Enforcement Departments in Accordance with the Law (Trial); and the Circular on Standardizing the Application Form and the Certificate for the Filing of Copyright Contracts.[215] The Circular on Standardizing the Copyright Order in Reprinting Online was issued on 17 April 2015.[216]

3.238. As of December 2015, there were five collective copyright management organizations in China: the Music Copyright Society of China, the China Audio-Video Copyright Association, the China Film Copyright Association, the China Written Works Copyright Society, and the Images Copyright Society of China. As of end December 2014, China Written Works Copyright Society was the largest copyright association in terms of the number of members, which reached 7,960, with remuneration worth RMB 1.62 million. Music Copyright Society of China had 7,701 members and an annual revenue of RMB 137 million in the same year; while China Audio-Video Copyright Association, with 123 members, collected about RMB 148 million for the use of copyright in karaoke; the Images Copyright Society of China, with 807 members, collected RMB 1.91 million for the use of photographic works; and the China Film Copyright Association, with 82 members, had an annual revenue of RMB 136,169.

3.3.7.4 Other IPRs

3.3.7.4.1 Layout-designs of integrated circuits

3.239. SIPO is responsible for the registration of layout-designs of integrated circuits. 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 SIPO Decree No. 11 of 18 September 2001, and effective as of 1 October 2001). The term of protection is of 10 years from the date of filing or the date of first commercial exploitation anywhere in the world, whichever expires earlier. No matter whether it has been registered or commercially exploited, a layout-design shall no longer be protected 15 years after the date of the completion of its creation. 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.

3.3.7.4.2 New plant varieties

3.240. The Regulations on the Protection of New Varieties of Plants, 1997, amended most recently in March 2013, provide for a period of protection of 20 years from the date of authorization in the case of vines, forest trees, and ornamental trees, and for 15 years for other plants. The Decision on Amending the Regulations on the Protection of New Varieties of Plants of 31 January 2013, which took effect from 1 March 2013, amended the rules on penalties for infringement to make them more stringent. The Seed Law of the People's Republic of China, which came into force on 1 January 2016, included an additional chapter on the "Protection of New Varieties of Plants", amended the provisions on violation penalties and further increased the compensation and penalties for infringements of the rights of new varieties of plants.

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[214] The Measures for Paying Remuneration for the Use of Written Works, NCAC and NDRC Joint Decree [2014] No. 11. Viewed at: http://www.ncac.gov.cn/chinacopyright/contents/483/228049.html (in Chinese only).

[215] The Implementing Rules on the Disclosure of the Information about Administrative Penalty Cases Concerning the Sales of Fake and Shoddy Products and Infringement of Intellectual Property Rights by the Press and Publication (Copyright) Administration and Law Enforcement Departments in Accordance with the Law (Trial), Xin Guang Chu Fa [2014] No. 56. Viewed at: http://www.gapp.gov.cn/chinacopyright/contents/483/201737.html (in Chinese only).

[216] Circular on Standardizing the Copyright Order in Reprinting Online, Guo Ban Fa [2015] No. 3. Viewed at: http://www.ncac.gov.cn/chinacopyright/contents/483/249606.html (in Chinese only).

3.3.7.4.3 Undisclosed information and trade secrets

3.241. In the absence of a specific law or regulations, undisclosed information and trade secrets are covered under a number of other laws and regulations, including the Criminal Law, the Anti-Unfair Competition Law, the Labour Law, the Regulations for the Implementation of the Law on Drug Control, and the Regulations on Administration of Agricultural Chemicals. 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. Such undisclosed test data and other data may not be used 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.

3.242. The Ministry of Public Security is responsible for criminal investigations in cases that seriously infringe undisclosed information or trade secrets, while the SAIC is in charge of the administrative enforcement of the law or regulations in this regard. The People's Courts may try both civil and criminal cases related to undisclosed information and the protection of trade secrets.

3.3.7.5 Enforcement

3.3.7.5.1 Overview

3.243. During the previous Review, it was noted that despite the efforts undertaken by the authorities to combat infringement, enforcement of IPRs continued to be a major challenge for China. China admitted the difficulty of the situation and provided information on its continued efforts to strengthen its capacity to protect and enforce IPRs.[217] In the context of the current Review, the authorities have noted that, during the period examined, China has continued to strengthen its enforcement system, both at the administrative and judicial levels, and that corresponding measures have been adopted. In China's IPR enforcement system, administrative actions are taken by the responsible governmental agencies, while judicial actions are taken through the public security authorities, procuratorial organs, and the courts. All public security authorities above the prefecture and city levels in China have 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 Customs, to facilitate the timely reporting of IPR infringements and prompt intervention by the public security authorities. Table 3.27 gives an overview of enforcement actions taken by the authorities during the period under review.

Table 3.27 Intellectual property enforcement, 2012-15

	2012	2013	2014	2015
Cases dealt with by administrative actions				
Patents				
Number of disputes (patent infringement disputes)	2,232	4,684	7,671	14,202
Copyright				
Number of disputes/administrative penalties	7,908	7,019	4,728	..
Imposition of fines (RMB million)	12.83	14.18	8.69	..
Cases transferred to judicial agencies	1,893	539	1,350	..
Businesses investigated	823	543	366	..
Underground dens detected	1,364,783	1,032,721	1,063,061	..
Trademarks				
Number of disputes	66,227	56,867	42,450	30,716
Trademark infringements	59,085	49,971	37,219	27,379
Other	7,142	6,896	5,231	3,337
Cases transferred to judicial agencies	576	362	300	164
Value of fines (RMB million)	525.07	515.07	432.67	361.98
Cases handled by Customs at the border (shipments)	15,690	20,464	23,860	..
Value (RMB million)	60.6	..	..	..
Cases dealt with by courts				
First instance civil IPR cases accepted	86,296	87,281	94,100	..
First instance civil IPR cases closed	82,758	87,091	93,146	..
Patent cases accepted	7,130	6,517	6,654	..
Patent cases closed	6,415	6,523	6,375	..

[217] WTO document WT/TPR/M/300/Add.1, 9 September 2014, p. 332.

	2012	2013	2014	2015
Trademark cases accepted	9,082	9,833	8,598	..
Trademark cases closed	8,555	9,402	8,816	..
Copyright cases accepted	27,861	24,250	27,613	..
Copyright cases closed	27,134	24,885	27,388	..
Technical contract cases accepted	746	949	1,071	..
Technical contract cases closed	710	908	1,016	..
Unfair competition cases accepted	1,123	1,302	1,422	..
Unfair competition cases closed	1,092	1,195	1,355	..
Other IPR cases accepted	1,933	2,304	2,355	..
Other IPR cases closed	1,715	2,211	2,209	..
Second instance civil IPR cases accepted	9,308	11,611	13,361	..
Second instance civil IPR cases closed	9,023	11,231	13,316	..

.. Not available.

Source: Information provided by the Chinese authorities.

3.244. During the review period, a special campaign of "convoy" enforcement of IPR laws and protection was launched, focusing on carrying out intensive inspections and on the rectification of law enforcement measures with respect to the circulation, production, import and export of patent infringing goods. The authorities have noted that they have focused on investigating and punishing group infringement, habitual infringement and patent counterfeit. Also, local IP offices and right protection assistance centres have been established to handle a variety of patent infringement and counterfeit cases. For example, it was noted that the Guangdong Provincial Intellectual Property Office has handled over 500 patent disputes.

3.3.7.5.2 Administrative enforcement

3.245. The National Leading Group on the Fight against IPR Infringement and Counterfeiting (NLG), founded in 2011, is mainly responsible for organizing the campaign against IPR infringement and counterfeit goods, as well as studying and formulating relevant policies and measures. The NLG, chaired by the Vice Premier of the State Council, supervises the implementation of work by various regions and relevant departments, as well as the handling of major cases involving IPR infringement and counterfeit goods. The NLG is comprised of the Supreme People's Court and Supreme People's Procuratorate and 30 agencies including the State Council ministries and organs in charge of IPRs, quality supervision, market regulation and crime crackdown. The office of the NLG, located at MOFCOM, is responsible for the daily work of the NLG.

3.246. SIPO has issued a number of policy documents with respect to patent administrative law enforcement, including the Decisions on Strengthening the Patent Administrative Law Enforcement Work and the Guidelines on Patent Administrative Law Enforcement to standardize the handling by local IP offices of patent infringements and patent counterfeiting investigations and penalties. SIPO issued the Guidelines on Patent Infringement Judgment and Counterfeit Patent Determination (on a trial basis) in July 2014. The Guidelines contain provisions for the determination of invention, utility model and design patent infringements, and patent counterfeit. In April 2014, SIPO issued the Notice on Specific Matters concerning the Disclosure of Information on Patent Administrative Law Enforcement Cases, requiring local IP offices responsible for patent administrative law enforcement to disclose information on patent counterfeit cases subject to an administrative penalty decision, as well as of patent infringement dispute cases resulting in a determination of infringement of rights. In May 2014 SIPO issued the Work Plan for the Special Campaign of Patent Law Enforcement and Rights Protection in the E-commerce Field, which, according to the authorities has since guided patent law enforcement and rights protection in e-commerce actions of local IP offices. For example, the local IP offices in Zhejiang, Beijing, Jiangsu, among others, have established cooperation mechanisms with local e-commerce service enterprises to avoid patent infringement.

3.247. With respect to copyright, the authorities noted that China led a number of campaigns and actions to strengthen administrative law enforcement during the period under review including the "Network Sword Campaign", through which cases of online copyright infringements and piracies were investigated by the local copyright authorities. The NCAC has also strengthened its proactive supervision over websites during the review period, and, to this end, issued the Opinions on Further Strengthening Regulation over the Copyright of Works Transmitted via the Internet on 30 December 2013.

3.248. The authorities noted that the NCAC has also been engaged in cracking down on copyright infringement. The NCAC has been doing this through the examination of licensing documents of movies and TV shows provided by audiovisual online services, the publication of pre-warning lists for key works and the coordination of the resolution of copyright disputes with right holders. In May 2014, NCAC issued the 2014 National Work Plan of Cracking Down on Copyright Infringement and Counterfeiting in the Sector of Press and Publishing (Copyright) with provisions to fight counterfeiting and promote the application of copyrighted software, to push forward the disclosure of information regarding copyright infringement cases, and establish a long-term law enforcement mechanism for copyright. The NCAC has also encouraged government agencies to use copyrighted software, and conducted inspections to ensure this.

3.249. In trademarks, apart from the amendments to the Trademark Law to improve trademark enforcement, the authorities also issued the Opinions on Further Combating IPR Infringement and Manufacturing and Selling Counterfeit and Shoddy Commodities, and the Judicial Interpretation of the Supreme People's Court on Jurisdiction of Trademark Cases and Application of Laws after Implementation of the Amendment Decisions of Trademark Law, and enhanced the protection of the exclusive right to use trademarks.

3.3.7.5.3 Judicial enforcement

3.250. During the period under review, China continued reinforcing the judicial infrastructure needed for court enforcement of IPRs, including through the creation of specialized IPR courts. On 31 August 2014, the Standing Committee of the National People's Congress issued the Decision on Establishing Intellectual Property Right Courts in Beijing, Shanghai and Guangzhou, providing a legal basis for the establishment and operation of IPR courts. The Supreme People's Court drafted and adopted the Provisions on Case Jurisdiction of Intellectual Property Right Courts in Beijing, Shanghai and Guangzhou after the promulgation of the Decision.[218]

3.251. The Provisions define the types of cases subject to the jurisdiction of IPR courts, including three categories: a) civil and administrative cases of patents, new varieties of plants, layout-designs of integrated circuit, know-how, computer software and other technologies; b) administrative cases filed regarding copyright, trademark, and unfair competition; c) civil cases involving well-known trademarks. They also define the jurisdiction of first instance IPR cases in Beijing, Shanghai and Guangzhou. Cases concerning appeals by right holders against the rulings or decisions made by the departments of the State Council with respect to the authorization or confirmation of IPRs, and administrative cases relating to the licensing of IPRs, are now exclusively governed by the Beijing IPR Court. The Provisions also establish that appeals of IPR cases of first instance should be referred to the corresponding higher level court in the same city where the IPR court which made the first ruling is located.

3.252. The Beijing Intellectual Property Right Court, the Guangzhou Intellectual Property Right Court and the Shanghai Intellectual Property Right Court were set up on 6 November 2014, 16 December 2014 and 28 December 2014, respectively. The authorities consider that the establishment of these IPR courts will have a significant influence on the strengthening of IPR protection. The Supreme People's Court has further explored the new model of jurisdiction layout and approved the Liangjiang New District Intellectual Property Right Court in Chongqing to hear some patent cases. The Supreme People's Court has further defined the IPR jurisdiction of lower courts through the Notice on Issues Concerning Jurisdiction of Intellectual Property Right Cases and has adjusted the jurisdiction of grassroots people's courts with jurisdiction over some patent cases to make it cross-regional. As of the end of 2014, there were 87 intermediate people's courts with right of jurisdiction over civil dispute cases of patents, 46 with jurisdiction over new plant varieties, 46 with authority over layout-designs of integrated circuits and 45 with jurisdiction over well-known trademarks cognizance. There were 164 grassroots people's courts with right of jurisdiction over general civil IPR cases and six grassroots people's courts with right of jurisdiction over utility model and design patent dispute cases.

[218] The text of the Provisions may be viewed at: http://www.chinacourt.org/law/detail/2014/10/id/147980.shtml (in Chinese only).

3.3.7.5.4 Customs law enforcement

3.253. In accordance with the revised Regulations on Customs Protection of Intellectual Property, which entered into effect on 1 April 2010, China Customs is in charge of IPR enforcement at the border. IPR holders may record their rights with Customs for border protection; recorded rights are valid for 10 years, renewable. Despite this, even in cases were rights have not been registered, right holders may apply to Customs for the detention of suspected infringing goods. In accordance with the Regulations on Customs Protection of Intellectual Property, counterfeit goods will be seized by Customs, which will destroy them if the infringing features cannot be removed. Except in extraordinary circumstances, imported goods bearing counterfeit trademarks are not allowed to enter into the channel of commerce simply by removing the trademark logo.

3.254. In 2014, China Customs stepped up its fight against IPR infringements and counterfeit goods, detaining 24,000 batches of goods suspected of IPR infringement and 92 million pieces of IPR-infringing commodities. In 2015, China Customs conducted the "QingFeng" special action to intensify risk analysis and control on key commodities, such as food, drugs and automobile parts, as well as on key shipping routes and ports, so as to combat IPR infringement in a more focused and targeted way. China Customs is also seeking to strengthen international cooperation on IPR protection.

4 TRADE POLICIES BY SECTOR

4.1 Agriculture

4.1.1 Features and market developments

4.1. The contribution of agriculture, animal husbandry, forestry and fishing to GDP declined slightly, from 9.9% in 2010 to 9.5% in 2014 and 9.3% in 2015 (Table 4.1). At the same time, employment in the sector continued to drop from 36.7% in 2010 to 29.5% in 2014 (latest year for which data were available).[1] The contribution of farming in terms of gross output value has increased slightly since 2013 from 55.1% to 55.8% of total output in 2015, and so has the contribution of livestock, accounting for 30.8% of output in 2015 (30.4% in 2013), while that of fisheries decreased from 10.3% in 2013 to 9.4% in 2015. The increase in the contribution of farming seems to be consistent with China's policies, as several Five-Year Plans have called for higher grain production to attain food security and a build-up of stocks to ensure price stability.[2] China's main agricultural products are: corn, rice and wheat; sugarcane; oilseeds; and cotton, some of which require large-scale operations and mechanization to achieve higher productivity, hence, China's main agricultural policy objective in 2015 was to reform the sector through innovation and modernization.[3] China continues to be a net importer of agricultural products.

Table 4.1 Principal indicators for agriculture, livestock, forestry and fishing, 2011-15

	2011	2012	2013	2014	2015
Contribution to current GDP (%)	9.8	9.8	9.7	9.5	9.3
Real growth rate (%)	4.2	4.5	4.0	4.2	4.6
Employment (percentage of total employment)	34.8	33.6	31.4	29.5	..
Share of gross output value (%)					
Farming	53.5	54.4	55.1	55.7	55.8
Forestry	4.0	4.0	4.2	4.3	4.0
Livestock	32.9	31.5	30.4	29.5	30.8
Fishery	9.6	10.1	10.3	10.5	9.4
Exports					
Agricultural products[a] (US$ million)	43,071.6	44,364.8	47,545.6	50,341.0	50,490.9
Top five exports by HS 4-digit (% of total)					
0712 Dried vegetables	6.1	3.5	4.8	4.8	5.6
2008 Fruit, nuts, preserved, n.e.s.	5.5	5.9	5.6	5.3	5.1
0703 Onions and garlic	5.6	3.9	3.8	3.8	4.7
2005 Other prepared/preserved vegetables	2.7	3.2	3.6	3.7	3.7
2309 Animal feed preparations, n.e.s.	3.5	4.1	3.5	3.5	3.2
Agricultural products[a] (% of total exports)	2.3	2.2	2.2	2.1	2.2
Agricultural products (growth rate, %)	20.9	3.0	7.2	5.9	0.3
Fishery[a] (US$ million)	17,106.9	18,269.9	19,601.1	21,056.9	19,806.2
Fishery (% of total exports)	0.9	0.9	0.9	0.9	0.9
Fishery (growth rate, %)	28.6	6.8	7.3	7.4	-5.9
Imports					
Agricultural products[a] (US$ million)	87,216.5	105,215.6	111,098.0	113,750.3	108,630.7
Top five imports by HS 4-digit (% of total)					
1201 Soybeans	34.1	33.2	34.2	35.4	32.1
1511 Palm oil	7.6	6.2	4.4	3.9	3.4
1007 Grain sorghum	0.0	0.0	0.3	1.4	2.7
1901 Preparations of cereals, flour, or milk	1.5	1.4	1.8	1.9	2.7
1003 Barley	0.7	0.7	0.7	1.4	2.6
Agricultural products[a] (% of total imports)	5.0	5.8	5.7	5.8	6.5
Agricultural products (growth rate, %)	31.6	20.6	5.6	2.4	-4.5
Fishery[a] (US$ million)	7,636.9	7,480.3	8,029.9	8,529.0	8,500.3
Fishery (% of total imports)	0.4	0.4	0.4	0.4	0.5
Fishery (growth rate, %)	22.4	-2.1	7.3	6.2	-0.3

.. Not available.

a WTO definition.

Note: Top five agricultural exports and imports by HS 4-digit are sorted by the year 2015.

Source: UNSD, Comtrade database and National Statistics of China online information.

[1] Data include employment in forestry and fishing.

[2] Average yields of grain products (corn, rice and wheat) have increased continuously since 2012, albeit with a slight decrease in 2014. Average yields were 5,824 hectares/kg in 2012, 5,894 hectares/kg in 2013, and 5,892 hectares/kg in 2014. (National Bureau of Statistics China (2015), National Statistics Year Book 2015.)

[3] CPC Central Committee, State Council, No. 1 Document of 2015, Several Opinions on Enhance Reform and Innovation and Accelerating Agriculture Modernization. Viewed at: http://english.agri.gov.cn/news/dqnf/201502/t20150203_24952.htm.

4.1.2 Policy objectives and administration

4.1.2.1 Policy formulation, institutional and legal framework

4.2. The broader policy goals stated in the 11th Five-Year Plan (2006-2010) and the 12th Five-Year Plan (2011-2015) of accelerating modernization in the sector to improve farmers' well-being has been reiterated in the CPC Central Committee No. 1 Document of 2015[4] and in the CPC Proposal for Formulating the 13th Five-Year Plan (2016-2020).[5] The latter aims at modernizing the sector through mechanization and promoting the development of moderate-scale operations to increase productivity, deepening the reform of land contract rights and finance policies in rural areas, protecting the quality of farmland to increase productivity, and ensuring grain self-sufficiency (at least 95%) and food safety. This is to be attained through, *inter alia*, increasing support to the sector, providing more benefits to farmers, improving the current subsidy policy (i.e. by eliminating some and creating new ones), and reforming the "price forming system" for agricultural products.

4.3. In 2014, total Central Government expenditure on agriculture, forestry and water increased by 6.2% from 2013, to reach RMB 1.4 trillion (RMB 1.3 trillion in 2013). During 2013-2015 government funding for subsidies granted to farmers increased. The minimum purchase price of wheat and rice increased in 2014 but according to the authorities remained unchanged in 2015.

4.4. The Central Government is responsible for establishing the general agricultural policy framework and the rules for its implementation. The Ministry of Agriculture together with other institutions, *inter alia*, the NDRC, the Ministry of Finance, and the Ministry of Commerce (MOFCOM), are in charge of implementing agricultural policy. The legal framework regulating the sector has not undergone any major changes since the last Review.

4.5. During the period under review, China's land management system has remained unchanged.[6] Nevertheless, measures have been implemented to provide more flexibility to transfer farmers' contract rights.[7] In 2015, a pilot programme was introduced to allow farmers to use both their right to contract land and their dwelling as collateral to obtain financing.[8]

4.1.3 Policy instruments

4.1.3.1 Border measures

4.1.3.1.1 Measures affecting imports

4.6. Agricultural products (WTO definition) are, with the exception of some animal products, all subject to *ad valorem* applied rates.[9] In 2015, the average tariff protection for agricultural products (WTO definition), unchanged at 14.8% since 2013, remained higher than the average applied MFN rate (9.5%) (Table 3.2). Sugars and confectionary (30.9%), cereals and preparations (23.3%), cotton (22.0%), and beverages, spirits and tobacco (21.8%) benefit from higher than average protection; these are amongst China's most important agricultural products (e.g. cereals and cotton) or among those considered sensitive (e.g. tobacco). Oilseeds, fats, and oils, which

[4] State Council Document No. 1 of 2015 indicated that, in 2015, agriculture reform should be through innovation and modernization and highlighted the important role of agriculture in China's socioeconomic development (CPC Central Committee, State Council, Several Opinions on Enhancing Reform and Innovation and Accelerating Agriculture Modernization. Viewed at: http://www.gov.cn/zhengce/2015-02/01/content_2813034.htm; and http://english.agri.gov.cn/news/dqnf/201502/t20150203_24952.htm).

[5] CPC Proposals on Formulating the 13th Five Year Plan on National Economic and Social Development, 29 October 2015. Viewed at: http://cpc.people.com.cn/n/2015/1103/c399243-27772351.html.

[6] 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 tenure of the land (WTO (2014), *Trade Policy Review – China*, Geneva).

[7] General Office of CCCPC and General Office of the State Council, Opinions on Guiding Rural Areas Land Operation Right to Orderly Transfer and Developing Agriculture Moderate Scale Operation, Zhong Ban Fa [2014] No. 61. Viewed at: http://news.xinhuanet.com/politics/2014-11/20/c_1113339197.htm (Xinhua news).

[8] Guo Fa [2015] No. 45. Viewed at: http://www.gov.cn/zhengce/content/2015-/24/content_10121.htm.

[9] 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).

include soybeans, one of China's major imports, have the lowest tariff protection at 10.5% (Table A3.1).

4.7. Bound rates for agricultural products (WTO definition) range from 0 to 65% and are higher than for non-agricultural products, which range from 0 to 50%. Bound tariff rates for agricultural products vary considerably; higher bound rates apply to cereals and preparations, and beverages and spirits (Table A3.1).

4.8. China makes use of tariff-rate quotas (TRQs). Since the previous Review there have been no substantial changes regarding the products subject to TRQs, the tariff rates applied or the system to allocate them. In 2015, tariff rate quotas (TRQs) applied 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 and out-of-quota rates have not changed; they are both *ad valorem*, with the exception of the out-of-quota rate for a type of cotton (HS 52.01.00.00). Out-of-quota imports of this type of cotton may be subject to a sliding duty that depends upon the price of cotton, but that cannot exceed 40% (i.e. the bound rate for cotton). Under this system, China fixes a threshold price (RMB 15/kg in 2015). If the price of imports is equal to or higher than the threshold price a specific duty of RMB 0.57/kg is levied; if the import price is lower than the threshold price, an *ad valorem* rate based on the formula applies.[10] Out-of-quota rates for other products are in most cases equal to bound rates.

4.9. The NDRC is responsible for allocating TRQs for grains and cotton, and MOFCOM allocates the rest. Some products subject to TRQs (i.e. grains, 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 other enterprises. Historically, the fill rate of TRQs has been low; however, this changed in 2013 and 2014 for products such as sugar, wool and cotton (Table 4.2).

Table 4.2 Tariff rate quotas and their utilization, 2013-14

(Tonnes, unless otherwise indicated)

Products	Out-of-quota rates (%)	In-quota rates (%)	Tariff quota quantity	In-quota imports (2013)	In-quota imports (2014)
Wheat (7 lines)			9,636,000	5,535,000	3,004,000
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 (1 line)	65	10			
Corn (5 lines)			7,200,000	3,266,000	2,599,000
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	2,271,000	2,579,000
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 2015 tariff schedule.

Source: WTO document G/AG/N/CHN/30, 2 February 2016; and Ministry of Finance (2015), *Customs Tariff of Imports and Export of the People's Republic of China*, 2015.

[10] The variable rate is calculated according to a formula, which may be viewed in: Ministry of Finance (2015), *Customs Tariff of Import and Export of the People's Republic of China 2015* (The Legal Texts), Beijing, p. 442.

4.10. 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. Tobacco leaf (i.e. sun-dried leaf tobacco and toasted leaf tobacco) purchased in China are subject to a 20% tobacco leaf tax.[11] The authorities stated that the tobacco leaf tax is not levied on imported tobacco leaf.

4.11. In 2015, the number of agricultural products subject to automatic import licences increased slightly as the requirement was imposed on seven additional products (sugar). Thus, in 2015 licensing requirements applied to 83 (76 in 2013) agricultural products (WTO definition), out of a total of 396 (442 in 2013) products subject to automatic import licensing (17.2% of the total). The main products concerned were: meat, dairy products, oilseeds, fats and oils, and tobacco. All agricultural products were subject to non-automatic import licensing. As of 1 September 2015 automatic import licences were also applied to four additional agricultural products (i.e. barley, sorghum, cassava and maize for brewing), equivalent to 8 tariff lines at the HS 8-digit level.[12]

4.1.3.1.2 Measures affecting exports

4.12. In 2014 China made a notification regarding the application of export subsidies on agricultural products; however, it did not cover the period under review (2014-2016).[13]

4.13. In general, exports of agricultural goods are not subject to export taxes. There are only four tariff lines subject to an export tax of 40% (Table 3.10).[14] VAT rebates at rates ranging from 0% to 15% apply to agricultural exports. The most common rebate rate, based on a tariff line analysis at HS 8-digit level, is 5%, which applies to 42% of all tariff lines, followed by 0%, which applies to 27% of all tariff lines, and 15%, which applies to 24% of all tariff lines some of which are major exports (e.g. prepared fruits and nuts, and other prepared/preserved vegetables) (Table 4.1).[15] The rebate rate of 13% applies to chicken, duck and other meats; while products such as: cereals, oilseeds and vegetables have a rebate rate of 0%, and endangered animals or plants, not an encouraged export, are exempt from the rebate.

4.14. Exports of cotton, rice, maize, and tobacco are subject to state trading. These products, except for tobacco, are also subject to export quotas, which are managed by the NDRC and allocated only to state trading enterprises. Wheat is also subject to export quotas.

4.15. Destination-specific quotas remain in place for exports of live cattle, swine, and chicken to Hong Kong, China and Macao, China. These quotas are distributed through an export licensing system. There are other products subject to export quotas and other restrictions, which are also administered through licences (Table 4.3). In 2016, export licensing applied to 73 (71 in 2013) tariff lines at the HS 8-digit level covering agricultural products (WTO definition); these accounted for 16.2% (15.8% in 2013) of total goods subject to export licences.[16]

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[11] State Council Decree No. 464 [2006], Interim Regulations on Leaf Tobacco Tax. Viewed at: http://www.gov.cn/zwgk/2006-05/10/content_277505.htm.

[12] MOFOM GACC Announcement No. 34 [2015]. Viewed at: http://www.mofcom.gov.cn/article/b/c/201508/20150801078101.shtml.

[13] China's latest notification regarding export subsidies covers 2011 or 2012 (WTO documents G/AG/N/CHN/24, 17 December 2012; and G/AG/N/CHN/27, 7 March 2014).

[14] These are all items under HS 0506 (Bones and bones and horn-cores, unworked, defatted, simply prepared, not cut to shape; treated with acid or de-gelatinized; and powder and waste of these products).

[15] The agricultural products subject to a rebate rate of 15% are: certain dairy products (HS Chapter 04) (e.g. yogurt and cheese); certain coffees, teas and spices (HS Chapter 09); vegetable saps and extracts (HS 1302); and nearly all tariff lines under HS Chapters 16 to 22 (prepared foodstuff; sugar and sugar confectionary products; cocoa and cocoa preparations; preparations of cereals; preparations of vegetables, fruit and nuts; miscellaneous edible preparations; beverages, spirits (State Administration of Taxation online information. Viewed at: http://hd.chinatax.gov.cn/fagui/action/InitChukou.do).

[16] The Catalogue of Goods Subject to Export Licence of 2015, MOFCOM GACC Decree [2014] No. 94. Viewed at: http://www.mofcom.gov.cn/article/b/c/201412/20141200854859.shtml; and The Catalogue of Good http://english.agri.gov.cn/news/dqnf/201502/t20150203_24952.htms Subject to Export Licence of 2016, MOFCOM GACC Announcement [2015] No. 76. Viewed at: http://wms.mofcom.gov.cn/article/zcfb/g/201512/20151201225345.shtml.

Table 4.3 Agricultural products subject to export quotas and licensing in 2016

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 and the licence issued by MOFCOM
Live cattle, swine and fowl (for export to Hong Kong, China and Macao, China); and maize, rice 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); and frozen and chilled beef, pork and chicken meat	Export licence	A licence is granted if the exporter has the relevant export contract

Source: MOFCOM GACC Decree [2014] No. 94. Viewed at: http://www.mofcom.gov.cn/article/b/c/201412/20141200854859.shtml.

4.16. In 2015, general export prohibitions continue to apply to eight agricultural products[17]; while others may not be exported if processed "under processing trade".[18]

4.1.3.2 Internal measures

4.1.3.2.1 Support measures

4.17. In 2015, China made a notification to the WTO Agriculture Committee regarding the support given to the agriculture sector; however, it did not cover the period under review (2014-2016).[19] Several support programmes covering the period 2009 to 2014 were, however, notified by China under the SCM Agreement (Table 4.4).[20]

Table 4.4 Support to agriculture and forestry, 2015

Description	Starting year	Form of subsidy	Legal basis
Subsidy for promoting superior strains and seeds	2002	Financial appropriations	MOF Circulars Cai Nong No. 16 and No. 17 of 2004 MOF Circular Cai Nong No. 440 of 2009
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 MOF Circular Cai Jian No. 1 of 2009
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 specialized economic cooperatives of farmers	2003	Financial appropriations	MOF Circular Cai Nong No. 87 of 2004 MOF Circular Cai Nong No. 156 of 2013
Fund for subsidizing the training of the rural migrant labour force	2004	Financial appropriations	MOF Circular Cai Nong No. 18 of 2005
Subsidy fund for transforming agricultural scientific achievements and promoting technical services	1999	Financial appropriations	MOST Circular Guo Ke Ban Cai Zi No. 417 of 2001 MOF Circular Cai Nong No. 81 of 2004 MOF Circular Cai Nong No. 31 of 2014
Subsidy fund for small farmland water conservancy facilities and national key construction projects on water and soil conservation	1983	Financial appropriations	MOF Circular Cai Nong No. 335 of 2009 MOF Circular Cai Nong Zi No. 54 of 2012
Subsidy for disaster prevention and relief in agricultural production	2001	Financial appropriations	MOF Circular Cai Nong No. 232 of 2001 MOF Circular Cai Nong No. 3 of 2013
Subsidy for prevention from and control of pests and disease in forestry	1980	Financial appropriations	MOF Circular Cai Nong No. 44 of 2005
Subsidy fund for agricultural resources and ecological protection	1984	Financial appropriations	MOF Circular Cai Nong No. 139 of 2004 MOF Circular Cai Nong No. 32 of 2014

[17] These products are: bezoar, black moss, bones, ivory, musk, some plants used to make perfumes (2 HS tariff lines), and some plants for medicinal use (WTO (2014), *Trade Policy Review – China*, Geneva).
[18] These products are: some products of animal origin, beverages (e.g. mineral water and alcoholic spirits), raw fur skins, and silk-worm cocoons (WTO (2014), *Trade Policy Review – China*, Geneva).
[19] China's most recent notification regarding domestic support covers the period 2009-2010 (WTO document G/AG/N/CHN/28, 6 May 2015).
[20] WTO document G/SCM/N/220/CHN, G/SCM/N/253/CHN and G/SCM/N/284/CHN, 30 October 2015.

Description	Starting year	Form of subsidy	Legal basis
Preferential tax policies for enterprises engaged in projects of preliminary processing of agricultural, forestry, animal, and fisheries products	2008	Enterprise income tax exemption and reduction	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
Preferential tax policies for the imports of China Grain Reserves Corporation	2009	Import VAT exemption	MOF Circular Cai Guan Shui No. 16 of 2011 MOF Circular Cai Guan Shui No. 33 of 2011
Preferential tax treatment for tea sold in the border areas	1994	VAT exemption	MOF Circular Cai Shui No. 60 of 1994 MOF Circular Cai Shui No. 71 of 2001 MOF Circular Cai Shui No. 103 of 2006 MOF Circular Cai Shui No. 141 of 2009 MOF Circular Cai Shui No. 89 of 2011
Preferential tax treatment for imported products for the purpose of replacing the planting of poppies	2000	Tariff and import VAT exemption	MOF Circular Cai Shui No. 63 of 2000
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 "11th Five-Year Plan" and "12th Five-Year Plan"	2006	Import VAT exemption	MOF Circular Cai Guan Shui No. 3 of 2006 MOF Circular Cai Guan Shui No. 9 of 2011

Source: WTO document G/SCM/N/220/CHN, G/SCM/N/253/CHN and G/SCM/N/284/CHN, 30 October 2015.

4.18. Support to agriculture continues to be granted mainly through the "four subsidies" programmes: the Direct Subsidy to Farmers (i.e. rice, wheat and corn); the Comprehensive Subsidy for Agricultural Inputs; the Subsidy for Promoting Superior Strains and Seeds; and the Subsidy for Purchasing Agricultural Machinery and Tools. According to the authorities, the most important support programme is the Subsidy for Purchasing Agricultural Machinery and Tools programme; however, in terms of expenditures the Comprehensive Subsidy for Agricultural Inputs programme is more important (Table 4.5). In 2008 budgetary transfers for this programme more than doubled and have continued to increase each year to reach RMB 107.8 billion by 2012, to remain unchanged thereafter.[21] The authorities have noted that the outlays for this programme have remained unchanged since 2012 because the price of inputs has remained stable.

Table 4.5 Outlays for agricultural support programmes, 2011-15

(RMB million)

	2011	2012	2013	2014	2015
Direct Subsidy to Farmers	15,100	15,100	15,100	15,100	..
Comprehensive Subsidy for Agricultural Inputs	83,500	107,800	107,800	107,800	..
Subsidy for Promoting Superior Strains and Seeds	21,948	21,903	21,585	21,445	..
Subsidy for Purchasing Agricultural Machinery and Tools	17,500	21,500	21,755	23,645	23,645
Fund for Agricultural Comprehensive Development	23,000	29,000	32,852	36,071	38,767
Fund for Specialized Economic Cooperatives of Farmers	700	850	1,850	2,000	..
Fund for Subsidizing the Training of Rural Migrant Labour Force	1,100	1,100	1,100	1,100	1,186
Subsidy Fund for Transforming Agricultural Scientific Achievements and Promoting Technical Services	6,100	10,100	10,908	12,354	15,354
Fund for Interest Discount of Loans for the Purpose of Agricultural Water-Saving Irrigation	50	n.a.	n.a.	n.a.	n.a.
Subsidy Fund for Small Farmland Water Conservancy Facilities and National Key Construction Projects on Water and Soil Conservation	13,000	22,308	19,308	23,108	44,806
Fund for Disaster Prevention and Relief in Agricultural Production	4,130	4,805	4,220	3,227	3,487
Subsidy for Prevention from and Control of Pest and Disease in Forestry	200	200	200	200	200
Subsidy Fund for Agricultural Resources and Ecological Protection	13,728	15,428	16,375	18,315	20,325

.. Not available.

n.a. Not applicable.

Source: WTO document G/SCM/N/220/CHN, G/SCM/N/253/CHN and G/SCM/N/284/CHN, 30 October 2015; and information provided by the authorities.

4.19. The Direct Subsidy to Farmers programme was introduced in 2004 and is still in place. Subsidies 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,

[21] WTO (2014), *Trade Policy Review – China*, Geneva; and WTO document G/SCM/N/220/CHN, G/SCM/N/253/CHN and G/SCM/N/284/CHN, 30 October 2015.

the rate is RMB 10-15 per mu (i.e. 0.06 ha) but it may vary according to the locality.[22] The programme is administered at the provincial level and the amount of the subsidy granted may vary. However, government outlays for direct payments have remained unchanged at RMB 15.1 billion per year since 2012, as according to the authorities the number of beneficiaries and the amount of land that they hold, has not changed.

4.20. Subsidies remain in place to purchase inputs, improved crop strains, agricultural machinery, and tools. These subsidies are centrally funded but the provincial governments formulate the implementation procedures, which vary according to local conditions; as a result, there is no general rule regarding its application. The objective of the centrally funded Comprehensive Subsidy on Agricultural Inputs, introduced in 2006, 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, and it is not linked to the cost of production.[23] Budgetary transfers for this programme have remained unchanged since 2012 at RMB 107.8 billion. The Subsidy for Promoting Superior Strains and Seeds scheme introduced in 2002 to improve the quality of seeds and livestock covers: cotton, maize, rice and wheat throughout China, and soya beans, rapeseed, cotton, potatoes, highland barley and peanuts, in specific areas of the country. Livestock covered by the scheme includes: pigs, beef cattle and sheep. The scheme has been extended continuously to cover larger areas of the country. The application of the subsidy varies according to the type of seed. The cost of this programme has decreased since 2012 from RMB 21.9 billion to RMB 21.4 billion in 2014 (Table 4.5).

4.21. The purchase 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 is subsidized at rates between 20% and 30% of the sale price under the Subsidy for Purchasing Agricultural Machinery and Tools scheme. In 2015, the number of items eligible for a subsidy decreased to 137 from 175 in 2014.[24] The list includes machinery used to produce: grains, cotton, oilseeds, and sugar, as one of the goals of the programme is to increase the level of mechanization in the production of these products; as well as, for animal husbandry, fisheries, horticulture, and for primary processing of agriculture products. Qualified farmers (including herdsmen and fishermen), farm workers, and rural production entities engaged in agriculture can apply for a subsidy when purchasing the listed goods.[25] This scheme applies throughout China, and may vary from province to province but not within a province. During the 2011-2014 period annual disbursements under this programme increased (Table 4.5).

4.22. The authorities noted that none of these programmes have undergone major reforms during the period under Review; however, China is in the process of restructuring its overall agricultural subsidy policy. The aim of this reform is to protect the land and attain food security. In 2015, a pilot programme to reform agricultural subsidies was implemented in five provinces (Anhui, Shandong, Hunan, Sichuan and Zhejiang) (Table 4.6).[26] The reform consists in combining three subsidies (i.e. the Direct Subsidy to Farmers, the Subsidy for Promoting Superior Strains and Seeds, and the Comprehensive Subsidy for Agricultural Inputs) into one programme, the Agriculture Support and Preservation Subsidy, which will have two separate components and is aimed at using funds in a more efficient manner. The funds that were formerly allocated to the three separate subsidy programmes will be allocated to the new programme, which aims at protecting the quality of agricultural land and supporting production in moderate-scale operations. The Subsidy for Purchasing Agricultural Machinery and Tools will remain in place. This reform seems consistent with China's overall agricultural policy goal of supporting mechanization and moderate-scale operations and the ongoing reform of farmers' land contract rights.

[22] The amount of the subsidy is determined according to the agricultural taxable area, taxable regular production, amount of land planted with grain (i.e. rice, wheat and corn), or the amount of the grain that farmers' sell (State Council Circular, Guo Fa [2004] No. 17, 23 May 2004. Viewed at: http://www.gov.cn/gongbao/content/2004/content_62827.htm.)

[23] WTO (2012), *Trade Policy Review - China*, Geneva.

[24] MOF and MOA, 2014 Implementation of Farm Machinery Purchase Subsidy Guidance. Viewed at: http://www.moa.gov.cn/govpublic/CWS/201402/t20140213_3757630.htm.

[25] Nong Ban Cai [2015] No. 6, 27 January 2015. Viewed at: http://www.moa.gov.cn/govpublic/CWS/201501/t20150129_4356487.htm.

[26] MOF Cai Nong [2015] No. 31, Guiding Opinions on Adjusting and Improving Three Agricultural Subsidy Policies. Viewed at: http://www.mof.gov.cn/pub/gansu/lanmudaohang/zhengcefagui/201505/t20150522_1237885.htm.

Table 4.6 Agriculture Support and Preservation Subsidy

General guidelines	Farmland subsidy		Moderate-scale operations subsidy	
	Beneficiary	Resources	Beneficiary	Resources
MOF MOA[a] Cai Nong [2015] No. 31	Farmers who have farmland contract rights	80% of the funds allocated to the Comprehensive Subsidy for Agriculture Inputs, Direct Subsidy to Farmers, and Subsidy for Promoting Superior Strains and Seeds programmes will be allocated to programmes to protect farmland	Moderate-scale operators (grains), family farmland, farmers' cooperatives, and agriculture social service organizations	20% of the funds allocated to the Comprehensive Subsidies for Agricultural Inputs will be allocated to programmes to support moderate-scale operations
Pilot programmes (Provinces)	**Farmland subsidy**		**Moderate-scale operations subsidy**	
	Beneficiary	**Type of subsidy**	**Beneficiary**	**Type of subsidy**
Anhui[b] Wan Zheng Ban [2015] No. 61	Farmers who have farmland contract rights	Allocation of funds is determined by the area of land farmed	..	..
Shandong[c] Lu Cai Nong [2015] No. 26	Farmers (wheat)	Allocation of funds is determined by the area of land farmed. Minimum grant: RMB 125/mu.	Farmers (grains) and family farms	Direct payment: RMB 60/acre for farms between 50-120 acres; and RMB 12,000 for farms > 120 acres
Hunan[d] Xiang Zheng Ban Fa [2015] No. 72	Farmers who have farmland contract rights, and who farm grains	Allocation of funds is determined by land farmed and type of crop. For one season (winter or spring) crop the grant is RMB 105/mu per year. For a winter and spring rice the grant is RMB 175/ mu per year	Moderate-scale operation farmers or entities (grains), family farmland, farmers' cooperatives, agriculture social service organizations	Support measures include: direct cash subsidy; improving agriculture financing and credit guarantee scheme; provision of subsidized loans; support to build agriculture infrastructure, use of technology and other services; support to family farmland and to facilitate land transfer
Sichuan[e] Chuan Nong Ye [2015] No. 50	Farmers who have farmland contract rights, and who farm grains	Allocation of funds is determined by the area of land farmed	Moderate-scale operators: grains (e.g. wheat, rice, maize), potatoes, soybeans, barley, and buckwheat; farmers; family farmland; farmers' cooperatives; agriculture social service organizations; and leading enterprises	Subsidies include: grant; subsidized loan; and subsidies to obtain technology or other services
Zhejiang[f] Zhe Cai Nong [2015] No. 149	Farmers who have farmland contract rights, and who farm grains	Allocation of funds is determined by the area of land farmed	Farmers' associations; farmers with farms > 50 acres (e.g. rice, wheat, and barley); family farms; and farmers' cooperatives	Direct subsidy to farmers; and support to agriculture social service institutions

.. Not available.

a Ministry of Finance, Ministry of Agriculture, Cai Nong [2015] No. 31, 13 May 2015. Viewed at: www.mof.gov.cn/pub/gansu/lanmudaohang/zhengcefagui/201505/t20150522_1237885.html.

b General Office of Anhui Province Government, Wan Zheng Ban [2015] No. 61, 7 November 2015. Viewed at: http://www.ahsj.gov.cn/views/show/34197.htm.

c Department of Finance and Department of Agriculture of Shandong Province, Lu Cai Nong [2015] No. 26, 17 June 2015. Viewed at: http://www.zgsxzs.com/a/news/zhaoshangdongtai/shengquzhengce/2015/0626/696465.html.

d General Office of Hunan Province Government, Xiang Zheng Ban Fa [2015] No. 72, 10 September 2015. Viewed at: http://www.hunan.gov.cn/2015xxgk/fz/zfwj/szfbgtwj/201509/t20150915_1878034.htm .

e Department of Agriculture and Department of Finance of Sichuan Province, Chuan Nong Ye [2015] No. 50, 25 May 2015. Viewed at: http://www.scagri.gov.cn/scxmgov/auto540/201506/t20150601_3080.html.

f Department of Finance and Department of Agriculture of Zhejiang Province, Zhe Cai Nong [2015] No. 149, 4 August 2015. Viewed at: http://xcepaper.zjol.com.cn/html/2015-10/22/content_6_1.htm.

Source: WTO Secretariat.

4.1.3.2.2 Price controls and marketing

4.23. China has gradually liberalized the price of most agricultural products. Agricultural products classified as key reserve materials (i.e. grains, cotton, edible vegetable oil (materials), sugar, and silk), and tobacco leaf, whose prices were controlled in the past, have been removed from the new Catalogue of Government-set Prices and Government-guided Prices.[27] Despite the removal of price controls on tobacco leaf, by law the State continues to hold the monopoly to administer the right to produce, manufacture, sell, transport, and import and export tobacco and tobacco products.[28] Imports and exports of tobacco are still subject to state trading. Private entities may import or export these products under a licence issued by the State Tobacco Monopoly Administration/China National Tobacco Corporation (Section 3.3, Tables 3.17 and 3.18). The purchase of tobacco leaf is also controlled; it is based on plans drawn up by the planning department of the local people's government. Similarly, the allocation of tobacco leaf and re-dried tobacco leaf amongst the provinces and other jurisdictions takes place according to a plan designed by the planning department of the State Council. The total annual production of cigarettes and cigars by each province and other jurisdictions is also determined by a plan.

4.24. A minimum procurement price scheme remains in place for rice and wheat in major producing areas. Minimum prices for grains (i.e. rice and wheat) continue to be set by the NDRC on a yearly basis, in consultation with the Ministry of Agriculture and other governmental institutions. The minimum price for rice and wheat increased during 2012-2014, due to an increase in production costs, but remained unchanged in 2015. The state-owned company Sinograin, purchases grains when the market price falls below the established support level. The minimum procurement price scheme for grains is linked to the volume of China's grain reserves; the minimum-price system is in place to ensure a stable supply of grains. Grain reserves of maize, 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 or at the minimum procurement prices set by the Government.

4.25. In 2014, China stopped its stockholding programme for cotton. This programme resulted in an increase in the domestic price of cotton paid to farmers to above international prices, and led farmers to sell most of their production to the State.[29] As a result, state reserves increased to levels beyond annual domestic demand, which triggered a reform of the policy. The former system was replaced, on a pilot basis in the Xinjiang Autonomous Region, by a mechanism that sets a target price for cotton; this price was RMB 19,800 per tonne in 2014 (RMB 19,100 per tonne in 2015).[30] Through the new mechanism, if the market price falls below the target price, the central government provides a subsidy to cotton farmers, the amount of which depends on the land farmed (which is given a weight of 60% in the calculation of the subsidy) and the amount of cotton sold for processing in the domestic market (a weight of 40%).[31] In 2015, the cotton subsidy was extended to nine other provinces.[32] However, it is not clear what form of subsidy applies in these provinces, it seems that a target price has also been established.[33]

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[27] NDRC Document [2015] No. 29, 8 October 2015 (came into effect on 1 January 2016). Viewed at: http://www.sdpc.gov.cn/zcfb/zcfbl/201510/t20151020_755152.html.

[28] Products subject to this control are the so-called "tobacco monopoly commodities", which include: cigarettes, cigars, cut tobacco, redried leaf tobacco, leaf tobacco, cigarette paper, filter rods, cigarette tow, and equipment to manufacture cigarettes (Tobacco Monopoly Law (24 April 2015). Viewed at: http://www.tobacco.gov.cn/html/27/2701/270101/4830381_n.html).

[29] Imports and exports of cotton are subject to state trading.

[30] Cotton Target Price Reform Pilot in Progress. Viewed at: http://www.sdpc.gov.cn/zcfb/zcfbtz/201404/t20140415_607179.html.

[31] The Interim Measures on Administration of Fund for Xinjiang Cotton Target Price Reform Pilot Subsidy. Viewed at: http://www.xjjh.gov.cn/zwgk/xzfxxgkml/czxx/cdxm/f59e4d28_2d31_4af8_8efd_36930fff8166.htm.

[32] These are: Shandong, Henan, Hebei, Hubei, Hunan, Jiangsu, Jiangxi, Gansu, Anhui and Tianjin. Viewed at: http://www.cncotton.com/sy_59/gnmh_1388/rdxw/201511/t20151120_554754.html.

[33] Henan online information. Viewed at: http://www.1633.com/policy/zhuanti/view-10680508-1.html; Hebei online information. Viewed at: http://www.tuliu.com/read-11746.html; Hubei online information. Viewed at: http://www.texindex.com.cn/Articles/2015-3-24/330704.html; Hunan online information. Viewed at: http://www.hn315.gov.cn/business/htmlfiles/hnzjj/s42/201510/32546.html; Jiangsu online information. Viewed at: http://www.jscz.gov.cn/pub/jscz/xxgk/gkml/201505/t20150528_75680.html; and Jiangxi online information. Viewed at: http://www.jxdpc.gov.cn/departmentsite/jmc/tztg/gztz/201502/t20150205_115865.htm.

4.26. A similar subsidy programme was put in place, in 2014, for soya beans in four provinces: Inner-Mongolia, Liaoning, Jilin and Heilongjiang. In 2014 the target price for soya beans was RMB 4,800/tonne.[34]

4.1.3.2.3 Other measures

4.27. China introduced a subsidized agricultural insurance scheme in 2007, which has grown in importance since then. 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.

4.28. In addition to the support granted to rural households through the access to insurance, the People's Bank of China (PBOC) has continued to take measures to increase financial deepening in rural areas by promoting innovation of rural financial products and services. The outcome of these and other policies has been that agriculture-related loans have increased. In 2014, agriculture-related loans accounted for 28% (26.5% in 2015) of the total loans of the banking system, amounting to RMB 23.6 trillion (RMB 26.3 trillion in 2015), an increase of 13% year-on-year.[35] In addition, the PBOC has set benchmarks on new deposits granted by financial institutions at the county-level. If these benchmarks are reached, the institutions may benefit from lower reserve requirement ratios and if the benchmarks are exceeded, fiscal incentives are granted, and more flexibility is allowed to restructure and write off non-performing agro-linked loans. As a result, in 2014, the PBOC reduced by 0.5 percentage points the reserve requirement for commercial banks that met its prudential requirements and reached a certain ratio in their lending to agriculture, rural areas and farmers.[36] In addition, to further increase the provision of credit to agriculture, rural areas and farmers, the PBOC introduced in 2014 and 2015 a new category of "credit policy supporting central bank loans", including agriculture-supporting loans (Section 1).

4.2 Services

4.2.1 Telecommunications services

4.2.1.1 Statistical overview

4.29. The main economic characteristics of the telecommunications sector in China and their recent evolution are described in Box 4.1.

Box 4.1 Economic characteristics and evolution of the telecommunications sector

Penetration rates (2014)

Total telephone subscribers: 1.536 billion (112.8 telephones per 100 inhabitants)
Mobile phone subscribers (% tot. tel. subscribers): 1.286 billion (83.8%)
Internet users (per 100 inhabitants): 649 million users (47.9%)
Broadband internet subscribers (per 100 inhabitants): 200.48 million

Main players

Number of companies providing value-added telecom services (2014): 24,001, of which 34 Sino-foreign equity joint ventures holding telecom business licences.

Names and market shares of the leading companies for fixed telecom services (2014): China Telecom: 65.2%; China Unicom: 28.3%; China Mobile: 6.5%

Name and market shares of the leading companies for mobile telephone services (2014): China Mobile: 67.7%; and China Unicom: 17.9%; China Telecom: 14.4%

[34] Guiding Opinions on Soybean Target Price Subsidy, Cai Jian [2014] No. 695. Viewed at: http://jjs.mof.gov.cn/zhengwuxinxi/zhengcefagui/201411/t20141128_1161139.html.
[35] Guo, Pei (2015), Agriculture Finance for Sustaining Food Security. Viewed at: http://www.fao.org/fsnforum/sites/default/files/files/120_FSN_APEC/Sep_9a.pdf; and information provided by the authorities.
[36] People's Bank of China (2015), *Annual Report 2014*. Viewed at: http://www.pbc.gov.cn/eportal/fileDir/image_public/UserFiles/english/upload/File/人民银行2014英文年报6.15定稿.pdf.

Name and market share of the broadband internet services providers (2014): China Telecom: 63.2%; China Unicom: 33.1%; China Mobile: 3.7%

Foreign ownership participation in telecom companies:

- For basic telecom services, the foreign equity ratios of China Telecom, China Mobile and China Unicom are 17.15%, 25.93% and 25.31% respectively.
- In value-added telecom services, 34 foreign-invested enterprises obtained telecom business licences, with foreign equity ratio ranging from 15% to 100%. Foreign investment was mainly from: Hong Kong, China; Chinese Taipei; Republic of Korea; Japan; Singapore; the United States; Germany; Ireland; and Finland.

State ownership:

In the field of basic telecom services, the state-owned equity ratios of China Telecom, China Mobile and China Unicom are 70.89%, 74.07% and 63.33% respectively.

Establishment of new companies, mergers or closures since the last Review

- No new entrants for basic telecom services
- 3,186 new companies since 2012 (2012: 20,815 companies; 2014: 24,001 (i.e. +15.31%)), licensing being open-ended.

Source: Information provided by the Chinese authorities.

4.2.1.2 Regulatory framework

4.30. The regulatory framework for telecommunication services in China has been described in detail in recent Trade Policy Review reports and has only marginally changed since the last Review.[37] The main changes concern the following areas: free trade agreements, interconnection, facility sharing, number portability, spectrum management, pricing and universal service.

4.31. The Ministry of Industry and Information Technology (MIIT) and the administrative departments in charge of telecommunications in all provinces, autonomous regions and municipalities, directly under the Central Government, remain the regulators of the telecommunications and information service market. During the period under review, a new regulation was promulgated, the Measures for Administration of Short Message Services (Ministry of Industry and Information Technology Order No. 31 of 19 May 2015) which aims at standardizing the provision of telecommunication short message services, safeguarding the lawful rights and interests of users, and promoting the healthy development of the short message service market.

4.32. The 2015 Investment Catalogue, which entered into force in April 2015, eliminated electronic commerce businesses run by foreign-invested telecom companies from its restricted category. In addition, the Notice of Liberalization of Foreign Shareholding Ratio in Online Data Processing and Transaction Processing Business (operational electronic commerce) issued by the MIIT in June 2015 eliminated the foreign shareholding ratio limit for online data processing and transaction processing businesses ("operational electronic commerce") nationwide, which can now be up to 100%.

4.33. In order to adapt to technological developments and to the emergence of new telecommunications businesses and services, the Catalogue of Telecom Business Classification was revised and a new version was issued in December 2015. The Catalogue of Telecom Business Classification (2015 version) defines the characteristics and scope of all kinds of telecommunications businesses and services and does not deal with foreign ownership ratios. The authorities underlined that all the telecommunications businesses included in China's WTO accession commitments have corresponding business classifications in the 2015 version of the catalogue.

4.34. In the China (Shanghai) Pilot Free Trade Zone (CSPFTZ), one activity, online data processing and transaction processing services for e-commerce ("operational electronic

[37] Notably in 2014: WT/TPR/S/300/Rev.1, paragraphs 4.37 to 4.47; in 2012: WT/TPR/S/264/Rev.1, paragraphs 165 to 204; and 2010: WT/TPR/S/230/Rev.1, paragraphs 83 to 98.

commerce"), was further liberalized as the maximum foreign shareholding participation allowed previously of 55% was raised to 100% in January 2015.

4.35. Regarding preferential agreements, five out of the six FTAs signed by China during the period under review contain supplementary commitments on telecommunications as compared to China's GATS commitments. This is in particular the case for the agreements on Achieving Basic Liberalization of Trade in Services in Guangdong and Hong Kong, China on the one hand and Macao, China on the other hand, as well as for the new agreements between mainland China and Hong Kong, China and Macao, China on services signed in November 2015. These wide–ranging agreements contain substantial further liberalization commitments. That is also the case for the FTA signed with Australia in June 2015, which entered into force on 20 December 2015. This agreement contains two supplementary telecommunications commitments as compared to China's GATS commitments regarding: a) the permission to set up either Australian-Chinese joint ventures or wholly owned enterprises in the CSPFTZ in order to undertake the following value-added telecommunication services: information services (app store only), store and forward services, call centres and domestic multi-party communications; and b) the permission to set up joint ventures (with a participation of no more than 55%) to undertake online data and transaction processing for profit e-commerce, a liberalization already available *erga omnes* since March 2014 in the context of the establishment of the CSPFTZ. The Republic of Korea-China agreement does not contain any supplementary commitments regarding telecommunications as compared to China's GATS commitments.

4.36. There were some regulatory changes with respect to interconnection during the period under review. The 2000 Regulations on Telecommunications were amended by the Provisions on the Management of Interconnection between Public Telecom Networks issued on 15 August 2014. The amendment to the Regulations eliminates the filing obligation for network interconnection agreements and mandates that the interconnection between telecom networks be based on the principles of technological feasibility, economic rationality, equity, cooperation and coordination. In accordance with the Regulations, the leading telecom business operator (i.e. China Telecom in Southern China and China Unicom in Northern China) has the obligation to provide other telecom business operators with interconnection, and must formulate and submit its Rules of Interconnection to the MIIT for approval before implementation. The direct interconnection between the telecom networks of two non-dominant business operators must be negotiated between the two parties. The telecommunications authorities are responsible for the regulation and administration of telecom interconnection as well as for the coordination and settlement of disputes. Since the last review, the MIIT has not received any interconnection-related complaints from operators. In addition, in 2014, the MIIT optimized the architecture for the interconnection of telecom networks by setting up seven new backbone direct connection points in addition to the three existing ones in Beijing, Shanghai and Guangzhou.

4.37. There were some developments with respect to facility sharing during the review period. In 2014, China Telecom, China Mobile and China Unicom deepened their facility-sharing cooperation by jointly sponsoring and establishing China Tower Co., Ltd. to carry out the construction, maintenance and operation of communication towers.

4.38. The authorities also took some steps toward the provision of local loop unbundling in the review period. The Notification to Open the Broadband Access Market to Private Capital (MIIT Notification No. 577, 2014) issued by MIIT in December 2014 provides that pilot wired access facilities service providers can engage in the rental of access network elements. Internet access service providers in China can provide Internet access services to users by renting the network resources from basic telecommunications companies and wired access facilities service providers, so as to provide local loop unbundling.[38]

4.39. There were also developments with respect to number portability. As a first step in this area, the MIIT had carried out a number portability experiment in Tianjin and Hainan Province in November 2010, and expanded the experiment in July 2013. In May 2014, the change from one-way to two-way number portability was completed in the Hainan Province, marking the official availability of two-way number portability services to local mobile phone subscribers. Pilot number portability services started to be provided to mobile phone subscribers in Jiangxi, Hubei and

[38] Local loop unbundling is classified in the Catalogue of Telecom Business Classification (2015 version), under the name of "wired access facilities services".

Yunnan Provinces on 20 September 2014. By the end of May 2015, number portability services had been used by more than 300,000 subscribers in five provinces.

4.40. Measures were adopted during the review period to liberalize price determination in telecommunications. On 15 August 2014, the State Council issued a Resolution to abolish the requirement of examination and approval of telecommunications services pricing. The coexistence of government-guided prices, government-set prices and market-adjusted prices was entirely replaced by market-adjusted prices taking into consideration factors such as production and operation costs and supply and demand on the telecommunications market.

4.41. Table 4.7 provides the International Telecommunication Union price baskets for telecommunications in China for 2008-2014.

Table 4.7 ITU price baskets for China, 2008-14

(US$)

	2008	2009	2010	2011	2012	2013	2014
Fixed-telephone sub-basket	3.74	2.26	4.69	3.9	4.9	4.80	4.85
Mobile-cellular sub-basket	3.6	3.71	6.02	5.3	2.3	4.04	4.07
Fixed-broadband sub-basket	18.5 512 kbit/s	17.62 512 kbit/s	17.82 512 kbit/s	17.8 512 kbit/s	23.2 1 Mbit/s	19.37 1 Mbit/s	19.53 1 Mbit/s

Source: ITU World Telecommunication/ICT Indicators database.

4.42. The regulatory framework applied by the MIIT regarding licensing did not change during the period under review. Licensing is regulated by State Council Decree No. 291 on Regulations on Telecommunications, State Council Decree No. 534 on the Provisions on the Administration of Foreign-Invested Telecom Enterprises and Ministry of Industry and Information Technology Order No. 5 on the Administrative Measures for the Licensing of Telecom Business Operations. By the end of 2014, five enterprises had obtained a basic telecom business licence (China Telecom, China Mobile, China Unicom, CITIC Application Services Providers, and China Satellite Telecommunications) and 24,001 enterprises had obtained a value-added telecom business licence. In May 2015, MIIT launched a trial programme for Mobile Virtual Network Operators (MVNO) licences in order to improve policies and promote competition in the mobile communications market. By the end of 2015, 42 such licences had been issued, with over 20.5 million users.

4.43. Progress was made during the review period with respect to the provision of universal services. By the end of 2014, telephone networks and broadband networks covered all towns in rural areas of China while telephone networks covered all administrative villages and 95.8% of natural villages, and broadband networks covered 93.5% of administrative villages. The next goal is for the broadband networks to cover 98% of administrative villages by the end of 2020. The Government formulates plans for universal services and organizes their implementation according to the needs of rural development and the capacity of telecom enterprises. The three providers of basic telecom services (China Telecom, China Mobile and China Unicom) carry out the plans, build the required facilities and provide information on communication services. While the telecom service providers bear the costs of construction, operation and maintenance of facilities used for universal services, the Government provides these enterprises with compensatory subsidies every year (RMB 350 million in 2014) according to the work they have completed. On 16 May 2015, the General Office of the State Council issued the Guiding Opinions on Speeding up Construction of the High-speed Broadband Network, Increasing Internet Speed and Reducing Internet Charges (Guo Ban Fa No. 41, 2015), requiring the acceleration of improvements to the compensation mechanism for universal services with a focus on broadband.

4.2.2 Financial services

4.44. The financial services regime in China has been described in detail in previous Trade Policy Review (TPR) reports, notably in 2014, 2012 and 2010[39], and has remained largely unchanged.

[39] See WT/TPR/S/300/Rev.1, paragraphs 4.48 to 4.84; WT/TPR/S/264/Rev.1, paragraphs 96 to 164; and WT/TPR/S/230/Rev.1, paragraphs 47 to 82.

4.2.2.1 Market overview

4.45. The main economic characteristics of China's financial services sector are described in Box 4.2.

Box 4.2 Financial services: statistical overview

General

Share of GDP of financial services in:
2013: 7%
2014: 7.4%

Employment:
By the end of 2013: 5.38 million employees of which 3.77 million in the insurance subsector and 308,000 in the securities, fund management and futures subsectors (245,000 in securities, 13,600 in fund management excluding private funds, and 49,300 in futures)

Banking services

Evolution of the number of financial institutions with legal personality:
2010: 3,764; 2011: 3,798; 2012: 3,747; 2013: 3,948; 2014: 4,088

Number and type of commercial banks (excluding policy banks and small financial institutions in rural areas):
856 in 2014, including 5 major commercial banks; 12 joint stock banks; 133 urban commercial banks; 665 rural commercial banks; 89 rural cooperative banks; 1 postal savings bank; and 41 foreign-corporate banks.

In addition, 66 foreign corporate banks from 26 countries and regions had set up 97 branches in China.

Cumulative share of the top five banks:
2013: 43.3%; 2014: 41%; 2015: 39.2%

Balance sheet of foreign banks in China (including foreign corporate banks and branches of foreign corporate banks, 2015:
Assets: RMB 2.68 trillion, accounting for 1.35% of the total assets of banking financial institutions

Liabilities: RMB 2.33 trillion, accounting for 1.27% of the total liabilities of banking financial institutions

Lending activities:
2012: RMB 67.29 trillion, of which domestic loans RMB 65.92 trillion (98%) and overseas loans RMB 1.37 trillion (2%)

2013: RMB 76.63 trillion, of which domestic loans RMB 75.04 trillion (97.9%), and overseas loans RMB 1.59 trillion (2.1%)

Securities activities: (securities, holding bonds, and stocks by commercial banks[a]:
2014: RMB 20.52 trillion; 2015: RMB 25.29 trillion

Insurance

Number of insurance companies:
2013: 143 companies of which: 71 life insurance companies (of which 28 foreign invested insurance companies); 64 non-life companies (of which 21 foreign invested insurance companies); 8 reinsurance companies; and no captive companies

2014: 149 companies of which: 74 life (of which 28 foreign insurance companies); 66 non-life (of which 22 foreign invested insurance companies); 9 reinsurance; and no captive companies

Total balance sheet of the insurance sector:
2013: RMB 8.130 trillion of which 83.95% life insurance; 13.46% non-life; 2.59% reinsurance

2014: RMB 10.1 trillion of which 82.44% life insurance; 14.05% non-life; 3.51% reinsurance

Total premiums: (RMB billion):
2013: RMB 1,722.2 billion of which life insurance RMB 942.5 billion; non-life RMB 779.7 billion

2014: RMB 2,023.5 billion of which life insurance RMB 1,090.2 billion; non-life RMB 933.3 billion

Insurance density: (premiums per capita in US$):
2012: 178.9 (of which 102.9 life; 76 non-life)

2014: 235 (of which 127 life; 109 non-life)

Insurance penetration premiums: (as % of GDP)
2012: 2.96% (of which 1.7% life; 1.26% non-life)

2014: 3.2% (of which 1.7% life; 1.5% non-life)

Concentration (cumulative market share of the top five companies):
2012: life insurance 70.16%; non-life 74.69%

2014: life insurance 62.45%; non-life 74.65%

Pensions funds
Number of firms providing commercial pension fund services (2012): 68 Total assets (2012): RMB 131.9 billion
Stock exchange and securities
Capitalization of the companies listed: 2013: RMB 23.91 trillion (i.e. 40.66% of GDP) 2014: RMB 37.25 trillion (i.e. 58.53% of GDP) Gross value of publicly issued bonds: 2013: RMB 281.38 billion (all issued by domestic borrowers) 2014: RMB 136.5 billion (all issued by domestic borrowers) Gross value of non-publicly offered bonds: 2013: RMB 120.5 billion 2014: RMB 248.2 billion Market value of bonds under custody: 2013: RMB 1.98 trillion 2014: RMB 2.62 trillion Securities turnover on the stock exchange (secondary market, 2014): Total turnover of the A-share market: RMB 74.39 trillion Turnover of exchange-traded bonds (existing bonds and repurchases): RMB 93.49 trillion Turnover of securities investment funds: RMB 1.99 trillion

a Commercial banks include state-owned commercial banks, joint-equity banks, urban commercial banks, rural commercial banks and foreign-invested banks.

Source: Information provided by the Chinese authorities.

4.2.2.2 Regulatory framework for banking

4.46. During the period under review, the main changes with respect to banking concern: preferential and bilateral policies, licensing regulations, credit cards and financial leasing regulatory frameworks, consumer finance, the investment catalogue, the Negative Lists that apply in Free Trade Zones (FTZ), anti-money laundering measures, the bank deposit insurance scheme, prudential regulations, measures taken to tackle systemic risks such as non-performing loans, local government special purpose vehicles, shadow banking and real estate bubbles.

4.47. Regarding preferential and bilateral policies, during the period under review China signed six new preferential agreement related to trade in services including banking services. The Agreement on Achieving Basic Liberalization of Trade in Services in Guangdong with Hong Kong, China, and the Agreement on Achieving Basic Liberalization of Trade in Services in Guangdong with Macao, China. These agreements follow a hybrid approach different from that of the previous Closer Economic Partnership Arrangements (CEPAs) and their supplements: a negative list to regulate restrictions related to commercial presence and a positive list for cross-border commitments in financial services. It is difficult to compare these commitments one-by-one with those of China under the GATS or under the previous CEPAs.

4.48. The FTAs with the Republic of Korea and Australia follow a more classical positive listing, GATS - like approach. The agreement with the Republic of Korea does not contain any new commitments regarding financial services as compared to GATS commitments. In the case of Australia, improvements include the reduction of the period of operation as a representative office in China required to set up operational foreign-funded banks, such as branches and subsidiaries, from three years to one year (in practice this requirement was eliminated on an MFN basis, see below); the right for branches established by an Australian bank in China to apply to engage in RMB business if one branch of the same bank has already obtained this permission; a removal of the minimum requirement on the amount of the non-callable operating capital allocated from an Australian subsidiary to each of its branches in China; and the right to engage in credit asset securitization on a national treatment basis. These commitments made by China to Australia reflect the Regulations of the People's Republic of China on Administration of Foreign-funded Banks.

4.49. The New Agreements on Trade in Services between mainland China and Hong Kong, China and the agreement between the mainland China and Macao, China, consolidate the concessions contained in the previous supplements to the CEPAs and in the agreements with the Guangdong Province, and adopt the hybrid structure of the latter agreements. The New Agreements on Trade in Services commit to additional liberalization in many sectors, including financial services, notably in terms of equity limitation and business scope. In respect to the CEPA 2015, the main improvement in banking services is to extend the application of the agreement from Guangdong Province to mainland China.

4.50. Regarding the licensing criteria for foreign banks, measures were adopted to facilitate market access. The provisions governing licensing are contained in the 1995 Law of the People's Republic of China on Commercial Banks, amended in 2003, and are further detailed in the Regulations of the People's Republic of China on Administration of Foreign-funded Banks. On 20 December 2014, the State Council issued the Decision (Guo Ling) No. 657 on Amending the Regulations on the Administration of Foreign-Invested Banks, which came into effect from 1 January 2015. The amended regulations, which constitute an autonomous liberalization as compared to China's WTO commitments, further ease market access for foreign banks and the requirements for them to conduct RMB business through three measures: a) the elimination of the requirement for the establishment of representative offices before setting up operating agencies; b) the lowering of the minimum operation period requirement for applying to conduct RMB business from three years to one year and the elimination of the two-year profit-making requirement; and c) the removal of the RMB 100 million minimum working capital requirement for branches of foreign-invested banks with legal personality.

4.51. In addition, on 11 September 2014, the China Banking Regulatory Commission (CBRC) promulgated the Implementation Measures on Administrative Licensing Items for Foreign-Funded Banks (CBRC Order No. 6, 2014). These measures abolish the restriction imposing that a foreign-funded bank may only apply for the establishment of one sub-branch in the same city at a time, and remove the minimum operating capital requirement for sub-branches of foreign-funded banks. Relevant rules concerning conditions and procedures for the issuance of debt instruments and capital supplement instruments by foreign-funded banks are incorporated into the measures in order to help these banks boost their capital. The measures narrow the scope of administrative licensing procedures and simplify them. Administrative examination and approval is no longer required for the following activities: starting electronic banking and debit card business for foreign-investment banks, working capital and business address changes by branches of operational institutions, the set-up of a self-service bank, the postponed set-up or opening of foreign-invested banks or their branches, the temporary closure and reopening of foreign-invested banks, the transfer of credit assets from the head office or affiliated banks to foreign-invested banks, and the use of interest-bearing assets by branches of foreign banks. The measures also enhance prudential regulatory requirements by reinforcing reporting obligations for shareholding transfers and by foreseeing regulatory visits, spot checking and inspections.

4.52. CBRC Decree No. 4 of 5 June 2014 specified the powers delegated to the local CRBC offices regarding the licensing and the monitoring of foreign-funded banks. As a result, most of the matters of foreign-invested banks not under direct administration that are subject to examination and approval, such as preparation for the establishment and opening, increase of capital, changes of business scope, and establishment and change and termination of representative offices, were delegated to local CBRC offices.

4.53. In a decision (Guo Fa No. 22, 2015) released on 22 April 2015, and applicable as of 1 June 2015, China's State Council sets out the conditions and procedures for the market access of bankcard transaction clearing institutions.[40] The decision lists the requirements that need to be fulfilled by an application for setting up a bankcard clearing institution and conducting such business in China:

- Organizations will be able to engage in bankcard clearing business after their applications are approved by the authorities and licences issued;

[40] State Council online information, "China regulates market access for bankcard clearing institutions". Viewed at: http://english.gov.cn/policies/latest_releases/2015/04/22/content_281475093816882.htm.

- The application requirements, covering various aspects, include a minimum of RMB 1 billion (US$161 million) of registered capital;
- Applicants shall file applications with the PBOC for preparation of establishment. The PBOC will decide whether to approve the application within 90 working days after receiving it. Applicants must complete the preparatory work within one year after approval and cannot conduct clearing business during the period. Upon completion of the preparatory work, applicants must file an opening application with the PBOC, which will decide whether to approve the application within 90 working days of receiving it. Bankcard clearing service licences shall be granted upon approval of opening applications;
- Applicants are required to officially start bankcard clearing services within six months of receiving the business permits;
- Requirements are imposed on the organizations' business, including protecting the information they acquire from bankcard clearing services;
- Overseas institutions that provide bankcard clearing services for clients in China should establish foreign-invested enterprises in the country according to law. If bankcard clearing services only take the form of providing foreign currencies for cross-border transaction, the establishment of a bankcard clearing service institution is not required;
- Institutions that had already started business before the implementation of the decision were given a year to submit applications for business permits or report their operations to the competent authorities, failing which they lose the right to continue to conduct business.

4.54. On 13 March 2014, the China Banking Regulatory Commission (CBRC) released the newly amended Administrative Measures for Financial Leasing Companies (Order of China Banking Regulatory Commission No. 3, 2014), which modify the provisions on market-entry requirements, business scope, operation rules, supervision and administration of financial leasing companies. The new measures lower entry barriers for setting up a financial leasing company by abolishing the distinction between "chief investor" and "ordinary investor" and by providing that any institution that falls within five specific types of institutions (i.e. domestic and overseas commercial banks, domestic large manufacturers, overseas financial leasing companies, other domestic institutions and other overseas finance institutions) can apply to establish a financial leasing company as an initiator. Moreover, they require that at least one eligible commercial bank, domestic large manufacturer or overseas financial leasing company be among the initiators, with an investment share of no less than 30%. The new measures broaden the permissible business scope of financial leasing companies to include: purchasing and transferring financial leasing assets (and not only to commercial banks as required under the previous measures), accepting deposits (with terms of no less than three months) from non-bank shareholders, and investing in fixed income securities. The measures also allow financial leasing companies to establish branches and subsidiaries with CBRC's approval. Since the measures were promulgated and up to end-October 2015, CBRC had approved the establishment of 22 financial leasing companies.

4.55. The 2015 version of the Investment Catalogue still places banking services in the "restricted" category (with the traditional meaning that investment above RMB 100 million must undergo an authorization procedure not implying necessarily an investment limitation). However, unlike the 2011 edition of the Catalogue, and in order to improve transparency, it explicitly spells out the pre-existing (2003) maximum foreign ownership limits set by financial services regulations, namely: a) that single overseas financial institutions and the affiliated parties under their control or joint control are only allowed to invest in not more than 20% of the shares of a single Chinese-funded commercial bank as promoters or strategic investors; b) that multiple overseas financial institutions and the affiliated parties under their control or joint control are only allowed to invest in a total of not more than 25% of the shares of a single Chinese-funded commercial bank as promoters or strategic investors; and c) that overseas financial institutions investing in rural small and medium-sized financial institutions must be banking financial institutions. These limits only apply to investment in pre-existing Chinese financial institutions; in the case of greenfield investment/establishment, institutions can be 100% foreign-owned.

4.56. Foreign investment in finance companies, currency brokerage companies, and trust companies remains in the restricted category. In practice, no investment limitations apply for the first two types of companies, as neither the Measures of the China Banking Regulatory Commission for the Implementation of Administrative Licensing Matters Concerning Non-bank Financial Institutions (Order of the China Banking Regulatory Commission No. 13, 2007) nor the amended Measures of the China Banking Regulatory Commission for the Implementation of Administrative Licensing Matters Concerning Non-bank Financial Institutions (Order of China Banking Regulatory Commission No. 6, 2015), issued in June 2015, restrict foreign investment in finance companies or currency brokerage companies. Limits do seem to apply in the case of trusts. Although the CBRC Measures for the Implementation of Administrative Licensing Matters Concerning Trust Companies (No. 5, 2015), amended in June 2015, do not explicitly restrict the proportion of a trust company's shares than can be held by offshore investors, CBRC Order No. 13, 2007 provides that a single offshore institution is allowed to have a maximum of 20% participation in a trust company.

4.57. There have been no changes in the scope and the conditions of banking activities allowed in the CSPFTZ and in other free trade zones, but the liberalization of the licensing regime for foreign-funded banks contained in the State Council Decision (Guo Ling) No. 657 of 20 December 2014 on Amending the Regulations on the Administration of Foreign-Invested Banks, which came into effect on 1 January 2015, also applies in the CSPFTZ.

4.58. The CBRC issued a number of regulations to strengthen prudential regulation in the second half of 2014 and kept improving its framework in accordance with the Core Principles of Effective Banking Regulation and based on the actual situation of the banking industry in China. For example, the CBRC organized stress tests for 19 banks in 2014, and issued the revised Guideline for Stress Tests of Commercial Banks in December 2014. CBRC also issued the Guidelines for the Consolidated Management and Regulation of Commercial Banks in December 2014 to further improve the framework for consolidated regulation.

4.59. Other recently issued prudential regulations include the revised CBRC Measures for the Administration of the Leverage Ratio of Commercial Banks (16 March 2015), the Circular on Matters Relevant to the Strengthening of the Administration of the Deposit Deviation Ratio of Commercial Banks by the CBRC, the CBRC Circular on Revising the Basis for Calculating the Loan to Deposit Ratios of Commercial Banks (30 June 2014), and the CBRC 2014 Guidelines on the Internal Control of Commercial Banks.

4.60. During the period under review, China continued to issue measures aimed at preventing systemic risks such as those arising from non–performing loans, shadow banking, excessive debts for local government financing platforms and risks of real estate bubbles. Those risks have a certain degree of interlinkage.[41] The non–performing loans (NPL) ratio, albeit still low at 1.4% at the end of 2014, has been rising over the last two years. There has also been a significant increase in disposal (26% of the gross stock of NPL in 2014 compared to 18% in 2013). To tackle those risks, in 2014, the CBRC issued the Guiding Opinions on Prevention of Non-Performing Loans (No. 60, 2014), which strengthens the risk monitoring and early warning system, establishes a more comprehensive credit risk monitoring indicator, strengthens risk-checking for key fields and key clients, and requires banking financial institutions to improve their credit management system and to establish a long-term mechanism for the prevention and control of non-performing loans.

4.61. Shadow banking emerged as an important source of funding for sectors benefitting from the post-crisis stimulus (real estate, local governments' infrastructure projects and state-owned enterprises) and became the fastest growing segment of the financial service sector in recent years. By March 2014, the stock of shadow banking had risen to nearly 53% of GDP, with annual growth rates averaging around 30% during 2012-2013. However, following a series of measures strengthening the regulatory framework taken by the authorities in April and May 2014, credit growth has decelerated significantly and shifted towards conventional loans. Some of the

[41] As described by the 2015 IMF country report, firms and local government financing vehicles have borrowed from both the banks and shadow banks, while banks and shadow banks are exposed to real estate directly through credit to developers and household mortgages and indirectly through the use of real estate as collateral for other loans. Furthermore, local government spending is also linked to the real estate sector directly through land sales revenues and indirectly through the tax revenue generated by real estate-related activity. See: IMF (2015), *Country Report No. 15/234: People's Republic of China, 2015 Article IV Consultation*, August 2015, paragraph 18, page 9. Viewed at: http://www.imf.org/external/pubs/ft/scr/2015/cr15234.pdf.

measures adopted were targeted at reining in interbank activity as a channel for fuelling shadow banking by restricting the ways to fund off-balance sheet credit through the interbank market. The regulation of non-standard products has also been tightened and trusts have been forbidden from funding cash pay-outs on maturing products with the proceeds of new wealth management products (WMP).[42] In addition, a trust protection fund has been established and a registry system for trust products is under preparation, and the standardized operation of financing guarantee companies, small-loan companies, and network credit business has been promoted.[43]

4.62. Real estate has been a significant engine of the economy but it has shown growing signs of imbalances: while several regions and most tier 3 and 4 cities (small and middle-size cities) are in a situation of oversupply of residential real estate, and most regions have an oversupply of commercial real estate, price pressure remains high in the coastal areas. In 2014-2015, activity has softened and the sector has entered an adjustment and correction phase to which the authorities have responded with a fine-tuned and differentiated approach depending on the regions and the markets. The aim of this policy is to allow adjustment to take place while preventing a sharp correction, by supporting the market if necessary, in order to ensure its stable development and supplying enough housing for the low-income population.

4.63. At the end of 2014, some restrictions on home purchases were relaxed, but in March 2015 the authorities introduced a package of measures to tackle oversupply, including reducing land supply in cities with excess housing inventory, and shortening the minimum period for housing sales tax exemption from five to two years of residency. This was later accompanied by measures to adjust the amount required as a down payment to obtain a loan. In March 2015, the PBOC, the Ministry of Housing and the CBRC jointly released the Notice on the Matters of Personal Housing Loan Policies (Yin Fa No. 98, 2015), increasing the minimum down payment to 40% for loans to households that already own one residential house, wish to improve their residential conditions and still have outstanding payments. In September 2015, the PBOC and CBRC jointly released the Notice on Matters to Further Improve Differentiation Housing Credit Policies (Yin Fa No. 305, 2015), adjusting the minimum down-payment ratio to 25% for households applying for personal housing loans for the first time in cities without purchase-limiting measures. At the same time, social housing investment and old-town reconstruction projects increased. According to the IMF, these policies have helped cushion the adjustment as evidenced by the recent stabilization of prices and floor space sold.[44]

4.64. During the 2014 Article IV IMF consultations, the Chinese authorities acknowledged that local government debt had become a pressing issue in some jurisdictions and that it was being addressed by a further strengthening of local debt management, including the creation of a monitoring system to contain risks.[45] The 2013 Third Plenum Blueprint for reform set the improvement of local government finances as a priority. This includes better aligning local revenue with expenditure responsibilities, as well as strengthening the oversight and management of local government borrowing. The Blueprint stresses that a plan to put in place a new framework to limit local borrowing, improve reporting and establish an early warning system, should be implemented as soon as possible.

4.65. According to the authorities, the adoption of the National Budget in late 2014 was the first step in this direction as it created a local government borrowing framework, improved transparency, strengthened medium-term fiscal planning and clarified that all spending that is fiscal in nature should be brought into the budget and be financed transparently, and that commercial investment projects of local governments do not have an explicit or implicit government guarantee. Measures have also been taken to: replace existing debts with local governments' bonds, in order to solve local governments' problems with respect to the repayment

[42] WMPs offered by China are investment products with fixed returns and a set maturity (usually short). They are marketed to retail and corporate investors and sold by both banks and non-bank financial institutions and sometimes have explicit principal or interest guarantees. Proceedings from the marketing of WMPs are invested in a range of loans and securities and the returns offered have traditionally largely exceeded regulated deposit rates.

[43] IMF (2014), *Article IV Consultation – Staff Report*, *Country Report No. 14/235*, July, Box 4, page 28. Viewed at: https://www.imf.org/external/pubs/ft/scr/2014/cr14235.pdf.

[44] IMF (2015), *Article IV Consultation – Press Release*, *Staff Report*, *Country Report No. 15/234*, August. Viewed at: https://www.imf.org/external/pubs/ft/scr/2015/cr15234.pdf.

[45] IMF (2014), *Article IV Consultation – Staff Report*, *Country Report No. 14/235*, July, paragraph 16, page 11. Viewed at: https://www.imf.org/external/pubs/ft/scr/2014/cr14235.pdf.

of matured debts; ease the interest burden of local governments; optimize the debt maturity structure; and avoid the risk of significant default. According to the authorities, currently, the loan quality of the platforms is fairly high, and the overall risk is manageable.

4.66. Provisions against money laundering have been reinforced by two recent legal texts. First, on 10 January 2014, the PBOC, the Ministry of Public Security and the Ministry of State Security jointly released the Measures for the Administration of Freezing of Assets Relating to Terrorist Activities (People's Bank of China, Ministry of Public Security, and Ministry of State Security Order No. 1, 2014), providing a regime and a legal basis for financial institutions and certain non-financial institutions to freeze assets relating to terrorist activities in legal procedures. In addition, to implement the risk-based management principle and promote the implementation of corporate monitoring, the Measures for Supervision and Regulation of Anti-Money Laundering by Financial Institutions for Trial Implementation (Yin Fa No. 344, 2014) were released by the PBOC and took effect in November 2014. They regulate notably issues dealing with anti-money laundering, off-site supervision, on-site inspection and other regulatory measures as required.

4.2.2.3 Regulatory framework for insurance

4.67. During the period under review, there were no significant changes as compared to the situation described in previous TPR reports regarding supervisory authorities and prudential regulations in the insurance subsector. The main changes concern the rules of ownership of insurance companies and preferential policies.

4.68. Regarding ownership, since April 2013, China has allowed private equity investment in insurance companies. More precisely, on 24 April 2013, China's Insurance Regulatory Commission (CIRC) released the Circular on Relevant Issues regarding the Investment and Shareholding of Limited Partnership Equity Investment Enterprises in Insurance Companies (Baojianfa No. 36, 2013), allowing domestic and foreign investment by limited partners of private equity funds in domestic Chinese insurance companies, i.e. all Chinese insurance companies in which the shareholding of all foreign investors is less than 25%. According to the Circular, which aims to broaden the sources of capital available to insurance companies, individual qualified private equity investors can invest in up to 5% of the equity of domestic insurance companies, and the total capital contribution or shareholding of all private equity investors in an insurance company shall not exceed 15%. Private equity investors are prohibited from participating in the management of insurance companies and from being the largest single or controlling shareholder.

4.69. The 2015 Investment Catalogue does not contain any changes regarding insurance services, except for "insurance brokerage companies", which were removed from the restricted category. Thus, according to the authorities investments above RMB 100 are no longer subject to authorization. This seems to be in line with China's WTO commitments (i.e. foreign insurance brokers have been allowed to set up wholly-owned subsidiaries since 2006.)

4.70. Compared with China's GATS commitments, the six preferential agreements signed by China during the review period additional commitments regarding insurance services The Agreement on Achieving Basic Liberalization of Trade in Services in Guangdong with Hong Kong, China, and the Agreement on Achieving Basic Liberalization of Trade in Services in Guangdong with Macao, China, as well as, the new Agreements on Services between mainland China and Hong Kong, China, and between mainland China and Macao, China have a negative list to regulate restrictions related to commercial presence and a supplementary positive list for cross-border commitments.

4.71. The FTA with Australia also contains supplementary commitments. Under this agreement, China has undertaken commitments in the form of a positive list.[46] The main supplementary commitment regarding insurance, as compared to China's GATS commitments, is the binding of motor vehicle accident liability compulsory insurance, which had previously been autonomously liberalized *erga omnes*.

[46] The agreement with Australia offers the choice between positive and negative listing and Australia, unlike China, made the latter choice for its commitments.

4.2.2.4 Regulatory regime for securities and stock exchanges

4.72. No significant changes regarding the supervisory authorities and licensing regime for securities and stock exchanges have taken place as compared to the situation described in previous TPR reports. New developments during the review period essentially concern the numerous measures taken by the Chinese authorities in order to stabilize the stock markets following the 2014 downturn, the partial opening of the stock market to foreign operators and increased convergence with international financial reporting standards, and preferential and bilateral policies.

4.73. The 2015 version of the Investment Catalogue maintains securities companies in the "restricted category" but it broadens their business scope and partially liberalizes partially foreign ownership by raising the limit from 33% to 49%.[47]

4.74. Prior to the first stock market fall in June 2015, the authorities took a number of regulatory measures to promote equity investment, including: easing the rules for margin borrowing (April 2013), liberalizing mutual funds (August 2014), and allowing investors to open multiple brokerage accounts (April 2015). However, in May 2015, the authorities tightened the rules on margin trading by banning margin-trading businesses of brokerages from using "umbrella trust" lending.[48] "Umbrella trusts" are structured products which are allowed to have leverage margins higher than brokerage accounts.[49]

4.75. Table 4.8 recapitulates the regulatory measures taken by the Chinese authorities up to December 2015 to stabilize the stock market.

Table 4.8 Policy measures taken by China to stabilize the stock market

Date	Specific measures
29/06/2015	MOF posted draft regulations that would allow pension funds to invest in the stock market.
1/07/2015	Fee cut for A-share trading and settlement. Administrative Measures for the Margin Trading Business of Securities Firms released in advance; mandatory liquidation no longer the only way for securities firms to dispose of clients' collateral.
2/07/2015	The China Securities Regulatory Commission (CSRC) states it would severely crack down on market manipulations.
4/07/2015	Stabilization fund: 21 securities firms committed to invest the equivalent of 15% of their net assets as of end-June, or no less than RMB 120 billion in total, to set up a stabilization fund for investment in blue chip exchange-traded funds (ETFs). They also committed not to sell any of their proprietary holdings, and increase their holdings when appropriate. New IPOs suspended. IPOs postponed for the 28 companies already approved. 25 fund managers committed not to sell shares until the market stabilized.
5/07/2015	IPOs suspended. No new IPOs in the near future. PBOC announced that it would inject liquidity into China Securities Finance Corp (CSF).
8/07/2015	CSF pledged to buy more small and medium-cap stocks. Measures taken to support major shareholders and directors of listed companies to increase the shareholding of their own companies. CSF gave secured credit line of RMB 260 billion to brokers that needed liquidity.
9/07/2015	CSRC banned directors and major shareholders of listed companies from selling any shares for six months. CBRC allowed bank roll-over loans backed by shares.
28/07/2015	CSRC investigated into huge stock sell-offs.

[47] In the 2011 edition of the Catalogue, the activities of foreign securities companies were: "limited to underwriting of A-Shares, underwriting and transaction of B-Shares, H-Shares, and government and corporate bonds". In the 2015 edition, "a securities company is limited to engaging in the underwriting and sponsorship of ordinary RMB-denominated shares, foreign shares, treasury bonds and corporate bonds, the brokerage of foreign shares, and the brokerage and proprietary trading of treasury bonds and corporate bonds upon establishment, and may apply for expanding its business scope two years after establishment if it satisfies relevant conditions".

[48] China officially launched margin trading by securities brokerages as a pilot project in 2010, expanded it in 2012 and created the China Securities Finance Corporation, established by the Chinese stock exchanges to provide funds for brokerages to lend to clients. Official margin lending was estimated at RMB 2.2 trillion (US$350 billion) in mid-2015. Leverage is capped at a 2:1 proportion, that is, investors can get loans for no more than twice their own funds to be invested in certain shares.

[49] An umbrella trust fund is a collective investment scheme that exists as a single legal entity but has several distinct sub-funds which are traded as individual investment funds. Umbrella trusts have been engaging in margin trading in China at leverage margins that are much higher (5:1 or above) than those allowed for brokerage accounts, with no limits on the type of shares in which they can invest.

Date	Specific measures
31/07/2015	CSRC, Shanghai Stock Exchange (SSE) and Shenzhen Stock Exchange (SZSE) targeted high-frequency traders in "spoofing" probe; trading of 24 suspicious securities accounts suspended.
21/08/2015	Announcement of severe crack down on the illegal reduction in shareholdings by major shareholders and actual controllers of listed companies.
9/10/2015	Public opinions solicited on the Administrative Measures on the Algorithmic Trading on Securities and Futures Markets.
6/11/2015	Relaunch of IPOs.
7/1/2016	CSRC released new rules for stock selling, providing guidance for transparent and orderly stock selling.

Source: Information provided by the Chinese authorities.

4.76. With respect to market access, the general principle is that foreign individual investors and foreign-based companies cannot directly engage in securities trading. However, foreign-capital firms established in China as Chinese companies may provide these services. Article 166 of the Securities Law of the People's Republic of China (its last amendment was promulgated by Presidential Decree No. 14 and entered into force on 13 August 2014) states that to engage in securities trading, and open the required securities account, and investor must be either a Chinese citizen or qualified as a Chinese legal person, unless otherwise provided for by the State. The concept of Chinese legal person includes Chinese-foreign contractual joint ventures and wholly foreign-owned enterprises established and registered within the PRC in accordance with the law. However, recently, the China Securities Regulatory Commission (CSRC) has intensified efforts to open up capital markets, and qualified foreign investors may participate in the domestic securities market. In accordance with the 1995 Stipulations of the State Council on the Domestic Listing of Foreign-oriented Stocks by Share-holding Companies and the Provisions on the Shanghai-Hong Kong Stock Connect Pilot Programme (CSRC Decree No. 101, 13 June 2014), foreign investors may now engage in a number of activities on the secondary securities market, as listed below.

4.77. First, they can directly engage in the B-share business.[50] Second, they can partially engage in the trading of A-shares via the Shanghai-Hong Kong Stock Connect Programme.[51] Under this programme, launched through a Joint Announcement by CSRC and Hong Kong China's Securities and Futures Commission (SFC) on 10 April 2014, the Shanghai Stock Exchange and the Hong Kong Stock Exchange enable investors to trade eligible shares listed on the other's market through local securities firms or brokers.[52] The Shanghai-Hong Kong Stock Connect comprises a Northbound Trading Link (Hong Kong, China-Shanghai) and a Southbound Trading Link (Shanghai-Hong Kong, China). According to the regulations, trading under the Shanghai-Hong Kong Stock Connect will, initially, be subject to a maximum cross-boundary investment quota, together with a daily quota that will be monitored on a "real time" basis, both according to their trading link. Trading in the Northbound Trading Link will be limited to an aggregate quota of RMB 300 billion and a daily quota of RMB 13 billion, and trading in the Southbound Trading Link to an aggregate quota of RMB 250 billion and a daily quota of RMB 10.5 billion. Quotas may be adjusted in the future. The Provisions also set some limitations for foreign investors investing in stocks in China, namely that the shareholding ratio of an individual foreign investor in a Chinese listed company must not exceed 10% of the shares of this company and that the shareholding ratio of all foreign investors must not exceed 30%. Certain restrictions apply on margin trading in both directions.

4.78. Third, foreign investors can engage in the Chinese securities market via the Qualified Foreign Institutional Investors (QFII) or the RMB Qualified Foreign Institutional Investors (RQFII) programmes which have been described in detail in the previous TPR report.[53] The conditions to

[50] B-shares are shares in companies based in mainland China that trade on either the Shanghai or Shenzhen stock exchanges. B-Shares are eligible for foreign investment provided the investment account is in the proper currency (Shanghai B-shares trade in U.S. dollars, while Shenzhen B-shares trade in Hong Kong dollars). A-shares are shares in mainland China-based companies that trade on Chinese stock exchanges such as the Shanghai Stock Exchange and the Shenzhen Stock Exchange. A-shares are generally only available for purchase by mainland China citizens; foreign investment is only allowed through a tightly-regulated structure known as the Qualified Foreign Institutional Investor (QFII) system.

[51] Detailed information on this programme may be found in: Hong Kong Exchanges and Clearing (2016), *Shanghai-Hong Kong Stock Connect Information Book for Investors*. Viewed at: http://www.hkex.com.hk/eng/market/sec_tradinfra/chinaconnect/Documents/Investor_Book_En.pdf.

[52] All Hong Kong, China and overseas investors are allowed to trade eligible shares listed in Shanghai. However, only mainland institutional investors and individual investors who have RMB 500,000 in their investment and cash accounts are eligible to trade Hong Kong-listed shares. With respect to China, only A-shares listed in Shanghai will be included in the initial stage.

[53] See WT/PR/S/300/Rev.1, paragraphs 4.78 to 4.83.

engage in these programmes have not changed since the previous Review. By end-September 2015, 290 financial institutions had been qualified as QFIIs, and the total approved quota had reached US$78.77 billion; by the same date, 178 financial institutions had been qualified as RQFIIs, and their total investment quota had reached RMB 411.5 billion.

4.79. Fourth, foreigners who are strategic investors may acquire shares of listed companies through an agreement-based transfer, the private placement of new shares and other channels stipulated by laws and regulations, and they may trade securities in accordance with the law. Foreigners who have been granted permanent residency in China can be regarded as Chinese citizens, and they may trade on China's securities markets without additional limitations.

4.80. Additional reforms have been undertaken during the period under review in the area of accounting and disclosure standards. In particular, the revision by the Ministry of Finance of eight enterprise accounting standards in 2014 has made China's System of Enterprise Accounting Standards more consistent with the International Financial Reporting Standards (IFRS).

4.81. The six FTAs signed by China during the period under review contain supplementary commitments with respect to securities as compared to China's GATS Schedule. The Agreements on Achieving Basic Liberalization of Trade in Services in Guangdong and Hong Kong, China, and with Macao, China, as well as the 2015 New Agreements on Services between mainland China and Hong Kong, China, and mainland China and Macao, China, imply a substantial liberalization in terms of equity limitations and business scope. These agreements have particular characteristics, since national treatment obligations are widely defined, a negative list applies to commercial presence reservations, and a positive list applies to supplementary commitments for cross-border trade.

4.82. The FTAs with the Republic of Korea and Australia have also resulted in additional liberalization. Under these agreements, China has adopted a positive list approach regarding its commitments.[54] They contain improvements as compared to China's GATS commitments, basically linked to market access, by increasing from 33% (as specified in China's GATS commitments) to 49% the minority ownership allowed in joint ventures of companies engaged in the underwriting of A-shares and in the underwriting and trading of B-shares and H-shares, and to the right to provide trading, advisory and portfolio management and custody services to Chinese Qualified Institutional Investors (QDII). Additionally, under the agreement with Australia, Australian financial services institutions in China may, subject to approval, be granted permission to participate in the securitization business on a national treatment basis.

4.2.2.5 Regulatory framework for mutual funds and asset management companies

4.83. The CSRC is the supervisory authority for mutual funds and asset management companies. Overseas institutions are not permitted to directly conduct publicly offered securities investment fund business in China for the time being. Foreign suppliers may only provide these services in China if they establish joint ventures with local firms, where the foreign investor's share does not exceed 49%.

4.2.2.6 Regulatory framework for pension funds

4.84. Enterprise annuity funds are the main form of pension funds in China. Their supervisory authority is the Department for Social Insurance Fund Supervision within the Ministry of Human Resources and Social Security. The licensing conditions for annuity funds are stipulated in the Interim Measures for Qualification Accreditation of Enterprise Annuity Fund Management Institutions (Bu Ling No. 24 issued by the Ministry of Labour and Social Security on 31 December 2004) and are centred on qualifications and prudential considerations. Currently, there are 34 institutions qualified to engage in the management of enterprise annuity funds, 20 of which with a certain degree of foreign investment participation.

[54] The agreement with Australia offers the choice between positive and negative listing and Australia, unlike China, made the latter choice for its commitments.

4.2.3 Health and social services

4.85. Table 4.9 contains the main economic indicators for health services in China.

Table 4.9 National health expenses, 1995, 2000, 2005, 2010-14

Selected indicators	1995	2000	2005	2010	2011	2012	2013	2014
Total expenditure on health (% of GDP)	3.5	4.6	4.7	4.9	5.0	5.3	5.4	5.6
General government expenditure on health as % of total health expenditure	50.5	38.3	38.8	54.3	55.9	56.0	55.8	55.8
Social security funds as % of general government expenditure on health	64.2	57.2	54.1	64.2	67.0	67.9	69.3	67.6
Private expenditure on health as % of total expenditure on health	49.5	61.7	61.2	45.7	44.1	44.0	44.2	44.2
Private insurance as % of private expenditure on health	0.0	1.0	5.8	7.4	6.4	7.0	8.0	10.2
Private out-of-pocket payment as % of private expenditure on health	96.3	95.6	85.3	77.2	78.8	78.0	76.7	72.4
Total expenditure on hospitals as % of total expenditure on health	61.9	64.9	66.3	60.8	61.1	62.2	62.3	62.5
Total expenditure on health/capita (US$)	21.3	43.7	80.9	220.1	279.8	329.0	375.8	420.3

Source: Ministry of Health (2015), Research Report of National Health Expenses of China 2015, based on the WHO statistical framework.

4.2.3.1 Hospital and medical services

4.86. China's GATS commitments relate to the applied regulatory regime regarding market access and national treatment. They contain three limitations: a) "foreign service suppliers are allowed to establish joint venture hospitals or clinics … with quantitative limitations in line with China's needs, with foreign majority ownership permitted" (market access mode 3); b) "foreign doctors with professional certificates issued by their home country shall be permitted to provide short-term medical services in China after they obtain licences from the Ministry of Public Health; the term of service is six months and may be extended to one year" (market access mode 4); and c) "the majority of doctors and medical personnel of the joint venture hospitals and clinics must be of Chinese nationality" (national treatment mode 3).

4.87. The 2015 Foreign Investment Catalogue classifies medical institutions in the restricted category. In addition, articles 8 and 17 of the Interim Measures for the Administration of Sino-Foreign Equity/Cooperative Joint Venture Medical Institutions, require that the establishment of a Sino-foreign equity/cooperative joint venture medical institution comply with the following conditions: a) it must be an independent legal person; b) total investment must be at least RMB 20 million; c) the proportion of shares or equity of the Chinese party must be at least 30%; and d) foreign institutions cannot establish branches.[55]

4.88. The Interim Measures stipulate that Sino-foreign equity/cooperative joint ventures must comply with the local regional health and establishment plans for medical institutions, and be governed by the Basic Standards for Medical Institutions, formulated by the Ministry of Health. This appears to be consistent with China's GATS commitment which indicates that "quantitative limitations in line with China's needs to establish joint hospital or clinics." The establishment plans for medical institutions are formulated by the health administrative departments at the county level or above, pursuing specific Guiding Principles which are currently under review.[56] These plans are thereafter examined and verified by the health administrative departments at a higher level, and approved by the people's government at that same level to be implemented within their own administrative jurisdictions. The plans are approved, and thereafter revised every five years, taking into account the following criteria: social and economic development level, pre-existing medical equipment, locally prevalent diseases, and demand for medical services and population needs. It appears that all medical institutions, regardless of ownership, are approved according to what the plan stipulates. Prior to their establishment, Sino-foreign equity/cooperative joint ventures require: i) a preliminary examination by the health administrative department (at the

[55] Order No. 11 of the Ministry of Health and the Ministry of Foreign Trade and Economic Cooperation, 15 May 2000.

[56] Order [1994] No. 35 of the Ministry of Health, Implementing Rules for the Regulations on the Administration of Medical Institutions, 29 August 1994; and Weiyifa [1994] No. 25, Guiding Principles for the Establishment Plans for Medical Institutions.

level of the municipality divided into districts) where it is located; and ii) the examination and approval by the provincial health administrative department.

4.89. The second limitation listed in China's GATS commitments indicates that foreign doctors with professional certificates issued by their home country shall be permitted to provide short-term (six months to one year) medical services in China after they obtain licences from the Ministry of Public Health. This would seem to apply in practice only to doctors employed by health institutions given that, due to other requirements, it does not seem to be possible for a foreign doctor to exercise medicine as a self-employed person or open a private practice. To obtain a licence, foreign doctors require a certificate and agreement from the inviting or employing institutions (one or more), or a declaration, to bear the corresponding civil liabilities.[57] In principle, registrations for a foreign doctor to provide short-term medical services in China cannot exceed one year. However, if required, foreign doctors may re-register. The health administrative departments at the level of municipality divided into districts are in charge of registering foreign doctors. An application must be examined and verified within 30 days of receipt, and applicants or their entrusted institutions must be informed in writing.

4.90. The CSPFTZ's 2013 negative list allowed (on a pilot basis) wholly foreign-owned medical institutions to operate for a period of a maximum of 20 years and a minimum investment of RMB 20 million; however, they were not allowed to open branches. Two operators, one from Germany and one from Japan, invested in the CSPFTZ. As a result of the evaluation of the pilot project, the 2015 negative list for the CSPFTZ and other pilot FTZs was amended to indicate that medical institutions in the FTZs could operate as joint ventures with foreign majority ownership.[58] One of the operators that had been established as a wholly foreign-owned operation was transformed into a joint-venture; the other is still considering its options.

4.91. The free trade agreements signed by China do not contain any supplementary/preferential concessions as compared to the GATS commitments except in four cases. First, both Chinese Taipei's and Australia's qualified services suppliers are allowed to establish wholly owned hospitals in specific areas of the mainland.[59] Second, the CEPA agreements between mainland China and Hong Kong, China and Macao, China contain numerous supplementary commitments to allow Hong Kong, China's and Macao, China's providers to, for instance: have a majority of Hong Kong, China/Macao, China permanent residents among the medical staff in joint ventures; prolonging the duration of short-term medical services from six months to three years; allowing Hong Kong, China and Macao, China practitioners to sit in mainland China's examinations. The supplements of the CEPAs have improved those concessions by: lowering the minimum capital required to establish a joint venture from RMB 20 million to RMB 10 million (Supplement IV); abolishing the domestic minimum requirement in joint-ventures for some provinces (Supplement VII); and allowing the establishment of wholly owned hospitals in the Shanghai and Chong Ching Municipalities, the Provinces of Guangdong, Fujian and Hainan, and in all the municipalities directly under the Central Government and provincial capitals in the mainland (Supplement VII); this concession was thereafter extended to the whole territory of the mainland (Supplement IX).[60] The services agreements with Hong Kong, China and Macao, China, which contain a negative list for commercial presence and positive list for supplementary commitments related to cross-border trade, abolished the minimum investment requirements for Chinese nationals in joint-ventures throughout mainland China.

[57] Order 24 of the Ministry of Health, 7 October 1992.

[58] Guo Ban Fa [2015] No. 23, Special Administrative Measures on Access of Foreign Investment to the Pilot Free Trade Zones (Negative List).

[59] Chinese Taipei may establish service suppliers in Shanghai Municipality, and in four provinces: Jiangsu, Fujian, Guangdong and Hainan. Australian providers may establish service suppliers in Shanghai Municipality, in four provinces: Jiangsu, Fujian, Guangdong and Hainan and also in Beijing and Tianjin.

[60] For more information on these commitments, see: Trade and Industry Department of the Government of the Hong Kong Special Administrative Region online information, "Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA)". Viewed at: http://www.tid.gov.hk/english/cepa/index.html; and Macao Special Administrative Region Economic Services online information, "CEPA". Viewed at: http://www.cepa.gov.mo/cepaweb/front/eng/index_en.htm.

4.2.3.2 Retirement home services[61]

4.92. China did not undertake any GATS commitments regarding retirement homes, but has done so in the China-Australia FTA, the CEPAs and the subsequent agreements with Hong Kong, China and Macao, China.

4.93. Retirement home services are regulated by the Measures for the Licensing of the Establishment of Retirement Homes for the Aged, which defines: conditions for licensing, the licensing authority, and the procedures to establish retirement homes.[62] According to the Measures, both domestic and foreign investors may establish retirement homes; however, foreign providers have to be licensed by authorities at the provincial or municipal level. Retirement homes can be established as: a) wholly invested by foreign organizations or persons; b) invested jointly or cooperatively by foreign organizations and persons, and Chinese organizations and persons; c) wholly invested by organizations and persons of Hong Kong, China; Macao, China; and Chinese Taipei; d) wholly invested by overseas Chinese persons; and e) invested jointly or cooperatively by overseas Chinese and domestic organizations and Chinese nationals.[63] However, if there were other legal investment provisions regarding investment in retirement homes that would contradict the aforementioned, such provisions should prevail.

4.94. As of 2014, foreign investors have been encouraged to establish profit-making retirement homes on their own (i.e. wholly owned), through equity and contractual joint ventures with Chinese companies, enterprises and other economic organizations.[64] The 2014 Announcement sets out the procedures and the requirements, which are essentially based on qualifications, to establish such institutions. Foreign investors have also been encouraged to participate in the transformation of public retirement homes, and to establish chains and create brands. National treatment will apply regarding taxes. In addition, the 2015 Investment Catalogue classifies "services institutions for the elderly, the disabled and children" in the encouraged category.

4.2.3.3 Heath insurance services

4.95. The volume of private health insurance premiums more than doubled since 2010, increasing from RMB 67.75 billion in 2010 to RMB 158.72 billion in 2014.

4.96. Private health insurance activities are regulated by the general regulatory framework for the insurance sector.

4.97. Costs incurred by patients, covered by China's basic medical insurance, are reimbursed if patients undergo treatment in a "designated" medical institution. According to the authorities, the same criteria (i.e. the provision of basic healthcare services at prices similar to the local average) to determine which are the "designated" medical institutions are used regardless of the source of the invested capital. The level of reimbursement will not vary according to the ownership of the "designated" medical institution.

4.2.4 Audiovisual services

4.2.4.1 Overview

4.98. For consistency purposes the following section describes the audiovisual services trade regulatory regime using the MTN.GNS/W/120-CPC provisional nomenclature's classification and definitions, as has been the case in other Trade Policy Review reports, rather than the *sui generis* classification used by China in its GATS commitments. This section does not therefore contain a description of China's commitments in the GATS nor in the various FTAs in which it has engaged. However, in the description of the status of foreign investment in audiovisual services in the Investment Catalogue, and for consistency with other sectors described in the present report, the Chinese national regulations' categories will be used.

[61] Retirement home services are part of CPC 93311 - Welfare services delivered through residential institutions to old persons and the handicapped.

[62] Order of the Ministry of Civil Affairs No. 48 of 28 June 2013.

[63] Article 10 of Measures for the Licensing of the Establishment of Retirement Homes for the Aged.

[64] Ministry of Commerce and the Ministry of Civil Affairs Announcement No. 81, of 28 November 2014.

4.99. The main economic indicators of China's audiovisual sector and their recent evolution are contained in Table 4.10. Growth in China's audiovisual/entertainment sector has been considerable over the recent years. The compounded annual growth rate of gross box office receipts of feature films exhibited is estimated at 34% for the period 2010-2015, while the number of cinema tickets sold increased 3.5 times and the number of movie theatres by 2.2 times during the period. Despite this, on a per-capita basis, China is still nine times less screen-equipped than the US market.

Table 4.10 Main indicators for audiovisual services in China, 2010-15

	2010	2011	2012	2013	2014	2015
Gross box office per indoor screen (RMB '000)	1,626	1,412	1,301	1,196	1,256	1,393
Number of indoor screens	6,256	9,286	13,118	18,195	23,592	31,627
Number of indoor screens per capita (per million inhabitants)	4.6	6.8	9.5	13.1	17.2	23.0
Feature films being 100% nationally produced (%)	92.0	89.6	93.8	93.4	92.9	91.0
Feature films being internationally coproduced (%)	8.0	10.4	6.2	6.6	7.1	9.0
Number of admissions of all feature films exhibited (million)	281	355	466	617	837	1,262
Gross box office receipts of feature films exhibited (RMB million)	10,172	13,115	17,073	21,769	29,639	44,069
Number of indoor cinemas	2,000	2,803	3,095	4,143	5,158	6,399
Number of national feature films produced	526	558	745	638	618	686
Number of radio channels	2,726	2,774	2,803	2,863	2,923	2,930
Number of television channels	1,327	1,330	1,340	1,336	1,335	1,337

Source: UNESCO Institute for Statistics (UIS) online information. Viewed at: www.uis.unesco.org; and data provided by the authorities.

4.100. One of the goals stated in the 12th Five Year Plan (2010-2015) was that cultural industries, including audiovisual services, should in the medium to long term become a "pillar" industry and that access to TV and radio programmes should be provided to 99% of the population.[65] In order to achieve this goal the Government encouraged banks to provide credit and financing to the entertainment industry (Table 4.11). The China Development Bank (CDB) actively supported cultural and creative industries during the period under review. By end-2015, the loans provided by the CDB amounted to RMB 176.1 billion.

Table 4.11 Outstanding credit from 21 major banks to cultural industries, 2013-15

(RMB million)

Date	Dec. 2013	June 2014	Dec. 2014	June 2015	Dec. 2015
Cultural industries	474,460.1	535,765.1	532,812.1	598,249.3	620,230.3

Source: Information provided by the authorities.

4.101. Other sources of financing for the audiovisual industry stem from two major funds. Firstly, the China Culture Industrial Investment Fund, which is a government-sponsored private equity fund with a capital of RMB 4.1 billion. The Fund conducts market-based operations, and finances cultural and creative activities, film production, publishing, printing and duplicating, advertising, performances and entertainment, animation, internet culture, cultural leisure and related industries. Secondly, the National Film Industry Development Fund, which supports the development of the film industry including the construction of theatres and key production bases, the renovation of equipment, and the translation of films into minority languages, and provides incentives for the production, distribution and projection of outstanding domestic films. It also funds the distribution and projection of films with cultural and artistic characteristics. The Fund is regulated by the Measures of Collection and Allocation of National Film Industry Development Fund (Cai Shui, 2015) and financed by a 5% tax on tickets sold.

4.102. The Chinese authorities have also recently put in place a series of tax incentives for the film industry. The Notice on Economic Policies to Support the Development of the Film Industry (Cai Jiao No. 56, 2014), jointly released by the Ministry of Finance, the NDRC, the Ministry of Land and Resources, the Ministry of Housing, the PBOC, the State Administration of Taxation, and the

[65] Cultural industries in China include news and press, broadcasting, television, film and video recording production and culture and arts.

State Administration of Press, Publication, Radio, Film and Television (SAPPRFT[66]), exempts from VAT, from 1 January 2014 to 31 December 2018, the sale of films (including digital versions) and proceeds from copyright transfers, film distribution and the screening of films in rural areas. The Circular on Several Issues Concerning Tax Policies for Continuously Supporting the Development of Cultural Industries (Cai Shui (2014) No. 85) issued by the Ministry of Finance, the General Administration of Customs, and the State Administration of Taxation provides that R&D expenses incurred by cultural enterprises for the development of new technologies, new products and new processes may be income-tax deductible. The same Circular grants an import duty exemption for equipment and related components and parts imported for use in cultural projects promoted by the State and which cannot be manufactured domestically. The Circular to Incorporate Railway Transportation and Postal Services into the Pilot Programme to Replace the Business Tax for the VAT (Cai Shui (2013) No. 106) specifically provides that overseas film production, distribution and projection shall be VAT exempted. The Circular to Apply Zero VAT Tax Policy to Exported Services such as Films and Television Programmes (Cai Shui (2015) No. 118) replaced this tax exemption with a zero-rated VAT policy.

4.103. Table 4.12 recapitulates the status of audiovisual activities in the Foreign Investment Catalogue (2011 and 2015 versions) both for the whole of mainland China's territory and for the CSPFTZ, as defined by the various Chinese regulations on foreign investment and their recent changes.

Table 4.12 Foreign investment catalogue status of audiovisual activities, 2011 and 2015

	2011 Catalogue	2015 Catalogue	2015 CSPFTZ Negative List
Radio, television and film production	Limited to contractual joint-ventures	Limited to contractual joint-ventures	Limited to contractual joint-ventures
Film production and distribution companies	Prohibited	Prohibited	Prohibited
Construction and operation of movie theatres	Restricted to joint ventures with the Chinese party as the controlling shareholder, except Hong Kong, China; and Macao, China	Limited to equity joint ventures with the Chinese party as the controlling shareholder, except for Hong Kong, China; and Macao, China	Limited to equity joint ventures with the Chinese party as the controlling shareholder, except for Hong Kong, China; and Macao, China
Production of audiovisual and electronic publications	Prohibited	Prohibited	Prohibited
Radio and television production and operation companies	Prohibited	Prohibited	Prohibited
Theatre chain companies	Prohibited	Prohibited	Prohibited
Broadcasting stations, TV stations, radio and television channels (frequencies), radio and television transmission networks (including launching pads, rebroadcasting stations, radio and television satellites, satellite uplink stations, satellite transfer stations, microwave relay stations, monitoring stations, cable radio and television transmission networks) at all levels	Prohibited	Prohibited	Prohibited
Survey of radio and television listening and viewing	Limited to equity/cooperative joint ventures	Limited to equity joint ventures with the Chinese party as the controlling shareholder	Limited to equity/cooperative joint ventures, with the Chinese party as the controlling shareholder

Note: Pursuant to the Circular of the General Office of the State Council on Issuing the Special Administrative Measures for Access of Foreign Investment to Pilot Free Trade Zones (the "Negative List") (Guo Ban Fa No. 23, 2015), the non-compliant measures in the Negative List of the CSPFTZ apply to the four free trade zones in Shanghai, Guangdong, Tianjin and Fujian.

Source: Information provided by the Chinese authorities.

4.2.4.2 Motion picture and videotape production and distribution services

4.104. These services correspond to item 2.D.a of the MTN.GNS/W/120 nomenclature, and include CPC provisional items 96111 (promotion or advertising services), 96112 (motion picture or video tape production services), 96113 (motion picture or videotape distribution services to other

[66] The SAPPRFT is a new agency resulting from the merger in 2015 of the State Administration of Radio, Film and Television (SARFT) and of the General Administration of Press and Publications.

industries) and 96114 (other services in connection with motion picture and video tape production and distribution).

4.105. The establishment of foreign motion picture production and distribution companies is prohibited, with the exception of film distribution companies of Hong Kong, China, and Macao, China investors, which are permitted to establish wholly owned subsidiaries in China for the distribution of Chinese-made films, as stipulated by the Supplementary Provisions to the Film Market Entry Rules issued by the State Administration of Radio, Film and Television (SARFT) on 7 March 2005. In addition, wholly foreign-owned enterprises or equity joint ventures from Hong Kong, China and Macao, China are allowed to produce and distribute audiovisual (including post-movie) products in accordance with SARFT and MOFCOM Order No. 50, 7 March 2005 and SARFT and MOFCOM Order No. 52, 25 March 2011, respectively. Limitations on foreign investment for the distribution of videotapes were eliminated in the 2015 Investment Catalogue.

4.106. This general prohibition stems not only from the foreign investment regimes defined by the 2011, 2015 and CSPFTZ Investment Catalogues but also from legislation specific to the sector, namely the Circular on Opinions on Foreign Investment in Culture Related Areas, jointly issued by the SARFT and the Ministry of Culture, the General Administration of Press and Publication, the National Development and Reform Commission, and the Ministry of Commerce in July 2005. This regulation superseded the earlier Provisional Rules on Operation Qualifications for Entry into Film Production, Distribution and Ad Exhibition of 29 October 2003, revised in November 2004, which authorized, for a brief period, foreign investors to incorporate in China a film production company in the form of an equity joint venture or cooperative joint venture with a majority of Chinese controlling interests.

4.107. While the establishment of foreign-owned production and distribution companies is prohibited, co-productions are allowed either in the framework of a State-to-State agreement or in the absence thereof under the rules set by SARFT Decree No. 31 of 6 July 2004. The Decree distinguishes three types of coproduction: joint production, assisted production, and contracted production. In the case of a joint production, the Chinese and foreign investors jointly participate in the funding and production of a film in China, and in the sharing of rewards and risks associated with the exploitation of the rights over the film. A joint production project is not considered a separate legal person in China. In the case of an assisted production, the foreign investor is solely responsible for providing the capital and carrying out the production of a film in China, enjoys exclusively the rewards, and bears the risks associated with the exploitation of the rights over the film. The Chinese participant provides assistance by way of equipment, instruments, and labour, and is compensated by the foreign investor for the assistance provided. In the case of a contracted production, the rights and benefits for the foreign investor are the same as those for an assisted production; however, a Chinese contractor is engaged to carry out certain production or filming in China, and compensated accordingly.

4.108. The number of films coproduced each year has varied between 42 and 58 in the 2010 to 2014 period, and has involved partners such as: Australia; Canada; France; Germany; Hong Kong, China; Japan; the Democratic People's Republic of Korea; the Republic of Korea; Macao, China; Malaysia; Poland; Samoa; Singapore; Chinese Taipei; the United Kingdom; and the United States.

4.109. The production, distribution, importation, release and projection of films in China are subject to approval by the relevant authorities, mainly the SAPPRFT. Foreign films can be shown on a revenue–sharing basis or on an outright purchase basis. There are limitations on the number of foreign films that can be shown in China on a revenue–sharing basis. China undertook in its GATS commitments to allow the importation and theatrical release of 20 foreign films a year on a revenue–sharing basis. This number was raised to 34, following negotiations with the United States. Between 2010 and 2015, China imported 288 foreign films on an outright purchase basis (i.e. flat fee).[67] Foreign films accounted for 45.5% of box office revenues in 2014. Additionally, the various Chinese TV channels imported 537 films in 2010, 378 in 2011, 444 in 2012, 401 in 2013 and 404 in 2014.

[67] The annual figures are: 41 in 2010, 44 in 2011, 70 in 2012, 43 in 2013, 38 in 2014 and 52 in 2015.

4.2.4.3 Motion picture projection services

4.110. This subsection covers item 2.D.b of the MTN.GNS/W/120 nomenclature and CPC provisional item 9612 (motion picture projection services).

4.111. The Interim Provisions on Foreign-Invested Cinemas (SAFRT, Ministry of Commerce, and Ministry of Culture Order No. 21, 25 November 2003), the Supplement to the Interim Provisions on Foreign-Invested Cinemas (SAFRT, Ministry of Commerce, Ministry of Culture Order No. 49, 8 April 2005), and the Second Supplement to the Interim Provisions on Foreign-Invested Cinemas (SAFRT, Ministry of Commerce, Ministry of Culture Order No. 5149, 18 January 2006) contain the industry's main regulatory framework. As shown in Table 4.12, in accordance with the three foreign investment catalogue regimes (2011, 2015 and CSPFTZ) establishment in this subsector is only allowed in the form of joint ventures with the Chinese party as the controlling shareholder. There is an exception for Hong Kong, China and Macao, China investors who can establish wholly foreign owned companies after obtaining a Licence for Film Projection Operation from the commerce administration authorities and the film administrative authorities at provincial level. This requires previously obtaining an Approval Certificate for Foreign-Invested Enterprises and a Licence for Film Projection. Domestic-invested cinemas may apply for film projection licences directly from film administrative authorities at county level. The Decision on Revising Some Rules and Normative Documents, SAFRT Order No. 3, 8 August 2015, removed the minimum RMB 6 million investment requirement for a cinema applicable until then. As at February 2016, there were 308 foreign-invested cinemas out of a total of 6,576 cinemas.

4.2.4.4 Radio and television production and transmission services

4.112. This subsector corresponds to MTN.GNS/W/120 nomenclature items 2.D.c (radio and television services) and 2.D.d (radio and television transmission services), which resulted from adding CPC provisional items 96131 (radio [production] services), 96132 (television [production] services), 96133 (combined programme making and broadcasting services), 75241 (television broadcast transmission services), and 75242 (radio broadcast transmission services).

4.113. Under the foreign investment regimes defined by the 2011, 2015 and CSPFTZ Investment Catalogues, foreign investment in companies producing, operating and transmitting radio and television programmes is prohibited. Furthermore, radio channels emitting from abroad are not allowed to broadcast within the Chinese territory. In accordance with the Administrative Measures for the Landing of Foreign Satellite Television Channels (SARFT Order No. 27, 18 June 2004), the landing of foreign satellite television channels is subject to approval, and approved channels can be broadcasted only in foreign-related hotels above the 3 star-level, in foreign-related apartments provided exclusively to foreigners as offices or residences, and in other specific areas. A permit is required for the provision of this service; the duration of the permit is one year, renewable under approval. News-oriented channels are not allowed in principle, nor are satellite television channels launched or jointly operated abroad by any domestic radio or television institution or any other department, group, enterprise or individual. Major corporate or programme orientation changes are subject to authorization.

4.2.4.5 Sound recording services

4.114. Sound recording services[68] are regulated in China as a kind of audio and video product. In accordance with the 2015 Catalogue for the Guidance of Foreign Investment Industries, foreign investment is completely prohibited in the production and publication of audio and video products.

[68] Sound recording services refer to item 2.D.e of the MTN.GNS nomenclature and have no CPC provisional correspondence.

5 APPENDIX TABLES

Table A1.1 Status of Selected Reforms Announced in the Third Plenum of the 18th CCP Central Committee Communiqué (12 November 2013), and the Decisions on Major Issues Concerning Comprehensively Deepening Reform (15 November 2013), April 2016

Announced reform initiatives	Progress
• Allow markets to play a greater role in resource allocation.	Aim to achieve results in core reform areas by 2020.
• Set up a reform leading group to oversee reform implementation.	
• Improve budget transparency through spending controls, multi-year budget adoption, and strengthening transfer system mandates; limit off-budget borrowing; and integrate government and LGFV investment spending.	Efforts made to implement mid-term fiscal planning and management, promote standardized management of local government debts, and establish an accrual reporting system.
• Better align local government revenue and spending responsibilities.	Guiding Opinions for Pushing Forward the Demarcation of Central and Local Governments' Revenue and Spending Responsibilities submitted to the State Council.
• Move towards a basic pension insurance system and basic medical insurance on a national basis.	
• Improve the coverage of basic urban social services; consolidate the social security system.	
• Lower social contributions when deemed appropriate.	Ministry of Finance work report.
• Continue tax reforms by gradually raising the share of direct taxes; adjust the scope of consumption taxes; broaden environmental taxes; roll-out the VAT reform and simplify tax rates; speed up reform on real estate tax and resource taxes; gradually establish a personal income tax system that combines both the all-inclusive and type-specific taxes.	In August 2013, a pilot programme to replace the business tax with the VAT in some services (i.e. transportation; the production, broadcasting and distribution of radio, film and television products), was implemented. The programme was extended to railway transport and postal services in January 2014 and to telecommunications in June 2014. The consumption tax on motorcycles with cylinder capacities below 250 ml, tyres, alcohol, and leaded motor gasoline was eliminated, but it was increased for refined oil products and wholesale cigarettes.
• Require SOEs to submit 30% of profits to the budget; establish state asset management companies to manage SOEs.	Aim to achieve results by 2020.
• Allocate some SOE capital to social security funds.	Aim to achieve results in core reform areas by 2020.
• Expedite interest rate liberalization, while removing deposit rate controls.	Liberalized lending rates; deposit interest rate cap removed.
• Better define supervisory responsibilities and continue to strengthen regulation and supervision.	New regulations issued in Q2 that covered trust companies, interbank activity, banks, and other areas.
• Reopen IPO market and move from an approval to a registration (disclosure) system.	IPO restarted and transition to registration system ongoing.
• Establish a deposit insurance system.	Insurance deposit system established in May 2015.
• Use interest rates as the primary tool for monetary policy and establish a more market-oriented interest rate framework.	
• Gradually expand the RMB trading band and encourage flexibility in both directions eventually leading to a flexible exchange system.	Trading band was widened to 2% in March 2014.
• Reduce the approval procedures for QFII eligibility and quotas in a timely manner.	The RQFII and RQDII quotas were expanded. The RQFII quota is subject to filing for management, but there is no quota control.
• Gradually liberalize cross-border capital and financial flows; establish a macro prudential framework on external debt and capital flow management.	The Shanghai-Hong Kong Stock Connect Pilot Programme approved in April 2014, and officially launched in November 2014.
• Allow qualified private capital to set up commercial banks.	The Guiding Opinions on Promoting the Development of Private Banks were issued in 2015. As of January 2016, 5 private banks, 8 private financial leasing companies and 2 private consumer finance companies had opened business.
• Eliminate investment approvals in all areas except those involving national security and strategic resources.	Modifications to the investment approval regime.
• Advance the Shanghai Pilot Free Trade Zone and explore other free-trade areas.	Three more FTZs opened by late 2015. Separate accounting system established.
• Strengthen intellectual property rights protection.	Enforcement programmes in 2014 and 2015. On 31 August 2014, the Standing Committee of the NPC adopted a decision on establishing IPR courts in Beijing, Shanghai and Guangzhou. On 6 November and 16 and 28 December 2014, IPR courts were established in Beijing, Guangzhou and Shanghai.
• Introduce a market-based pricing mechanism in the utilities, transport, and telecommunication sector.	

Announced reform initiatives	Progress
• Reform resource prices.	Local authorities were guided to adjust water resource, pollution discharge, and sewage treatment fees and other environmental protection charging standards.
• Increase emphasis on environmental protection in assessing local officials' performance.	Law amended in April 2014; targets of 15–25% reduction in air pollutants announced.

Source: WTO Secretariat, based on information provided by the authorities and on IMF (2015), *Country Report No. 14/235: People's Republic of China, 2014 Article IV Consultation*, July 2014.

Table A1.2 Summary of the Outline of the 13th Five-Year Plan for National Economic and Social Development (2016-2020), as endorsed by the NPC

Advice in 13th FYP Outline	Reforms announced by the authorities
Main goals	
• Keep the economy growing a medium and high speed level	
• Improve people's standard of living	
• Improve the environment	
Innovation	
New motivation	• Emphasis on the role of consumption, investment and export on economic growth: expand services consumption and promote public-private partnership investment
New space	• Regional development: "One Belt, One Road", Development of Jin Jing Ji, and Changjiang River Economic Belt • Industry development: upgrade traditional industries and facilitate the development of emerging industries in energy-saving and environmental protection areas, bio-technology, and IT • Expand infrastructure investment • Internet economy
Innovation and development strategy	• Encourage research and implement technology programmes • Promote the leading role of enterprises • Deepen the reform in science and technology, establish an IP trade platform • Give more autonomy to universities and scientific institutions
Agriculture modernization	• Review land contracts, separate land ownership, contract rights and operation rights • Farmland protection • Improve agriculture product quality and safety, increase agriculture inputs, improve subsidy policy
Industry modernization	• Manufacture reform "Made in China 2025" • Improve brand quality and improve enterprise exit mechanism • Support the development of strategic emerging industries • Modernize services: open market access, move to the high-end of value chain, and develop tourism
New administrative system	• Administration management reform • Public ownership will still be the main ownership, while other forms of ownership will be developed • SOE reform: establish a modern corporate system, improve national asset administration, guide national capital to invest in key industries, encourage private enterprises to enter into more fields • Improve the business environment, reduce government intervention and simplify administrative approval procedures • Market system: fair competition, break up regional and industry monopolies • Fiscal reform: separate central and local government power; set a comprehensive and transparent budget; deal with local government financing; prioritize the use of innovative and green products in government procurement • Financial reform: promote private investment in banking, enhance financial service provision to SMEs and rural areas; promote a transparent capital market; introduce new financial services; liberalize exchange and interest rates; regulate internet finance; establish a system of insurance for major disasters
Macro control	• Expand employment, stabilize prices, structural adjustment, protection of the environment • Reduce government intervention • Establish risk recognition and early warning mechanism
Coordination	
Regional coordination	• Development of Western China; pioneer development of East China • Development of the Jing Jin Ji, and Changjiang River Economic Belt
Green development	
Clean production	• Support green and clean production, improve education
Low carbon cycle development	• Energy reform: establish clean, low carbon, safe and efficient new energy system, increase the use of non-fossil energy and promote the clean and efficient use of fossil energy like coal • Promote public transportation, encourage bicycle use and promote new energy automobiles • Control carbon emission
Save and efficiently use resources	• Management of use of energy and other resources • Water resource management and farmland protection • Contract energy management and contract water saving management • Promote reasonable consumption
Environment protection	• Air, water and soil protection, control contamination and reform monitoring and regulation system
Open development	
New layout	• Two-way open, cross-border economic cooperation, upgrade overseas investment, open more fields and relax access limitations
New business environment system	• Improve business environment, establish new system for cross-border electronic commerce, improve service trade system and simplify customs clearance • Pre-establishment national treatment and negative list management system • Two-way opening in finance, RMB convertibility for capital account, Negative List for foreign exchange management, relax foreign investment limitations, monitor international balance
"One Belt, One Road"	• Improve bilateral and multilateral cooperation mechanism, international infrastructure establishment, cooperation between international financial institutions
Global Governance	• Promote international economic governance and multilateral trade negotiations, implement FTA strategy
International obligations	• Respond to climate change, support developing countries, and protect international safety and security

Source: WTO Secretariat, based on the Outline of the 13th Five-Year Plan for National Economic and Social Development (2016-2020).

Table A1.3 China's merchandise exports by product group, 2011-15

	2011	2012	2013	2014	2015
Total exports (US$ billion)	**1,898.4**	**2,048.8**	**2,209.0**	**2,342.3**	**2,281.9**
			(% of total)		
Exports under processing trade	44.0	42.1	39.0	37.8	35.0
Total primary products	6.5	6.0	5.9	5.9	5.6
Agriculture	3.4	3.2	3.2	3.2	3.2
Food	2.9	2.7	2.7	2.7	2.8
Agricultural raw material	0.6	0.5	0.5	0.5	0.4
Mining	3.1	2.7	2.7	2.7	2.4
Ores and other minerals	0.2	0.2	0.2	0.2	0.1
Non-ferrous metals	1.2	1.1	1.0	1.1	1.0
Fuels	1.7	1.5	1.5	1.5	1.2
Manufactures	93.3	94.0	94.0	94.0	94.3
Iron and steel	2.9	2.6	2.5	3.1	2.8
Chemicals	6.0	5.5	5.4	5.7	5.7
Other semi-manufactures	7.7	8.0	8.1	8.2	8.7
Machinery and transport equipment	47.5	47.1	47.1	45.8	46.8
Power generating machines	1.3	1.2	1.2	1.2	1.2
Other non-electrical machinery	6.2	6.2	6.2	6.4	6.4
Office machines & telecommunication equipment	26.2	26.3	26.9	25.4	25.9
7643 Radio or television transmission apparatus	3.3	4.0	4.3	5.0	5.5
7522 Data processing machines,	5.8	5.8	5.2	4.8	4.1
7764 Electronic integrated circuits and microassemblies	1.8	2.7	4.0	2.7	3.1
7649 Parts and accessories for apparatus of division 76	2.9	2.7	2.8	2.6	2.8
7763 Diodes, transistors, etc.	1.8	1.2	1.1	1.2	1.4
7599 Parts and accessories of 751.1, 751.2, 751.9, 752	1.6	1.5	1.3	1.3	1.3
7611 Color television receivers	1.2	1.1	1.0	1.1	1.1
Other electrical machines	7.7	7.5	7.7	7.7	8.0
7712 Other electric power machinery; parts of 771	1.0	1.0	1.2	1.0	1.0
7731 Insulated wire, cable etc.; optical fibre cables	0.8	0.9	0.9	0.9	0.9
7758 Electro-thermic appliances, n.e.s.	0.8	0.8	0.8	0.8	0.8
Automotive products	2.0	2.1	2.1	2.2	2.2
7843 Other motor vehicle parts and accessories	1.1	1.1	1.2	1.2	1.2
Other transport equipment	4.3	3.7	3.0	2.9	3.1
7932 Ships, boats, and other vessels	2.0	1.6	1.0	0.8	0.9
Textiles	5.0	4.7	4.8	4.8	4.8
Clothing	8.1	7.8	8.0	8.0	7.7
8453 Jerseys, pullovers, cardigans, etc., knitted/crocheted	1.1	1.0	0.9	0.9	0.9
8442 Suits, ensembes, jackets, dresses, etc.	1.0	1.2	1.3	1.0	0.9
Other consumer goods	16.0	18.3	18.2	18.5	18.0
8719 Liquid crystal devices, n.e.s.; lasers (excl. laser diodes)	1.7	1.9	1.7	1.5	1.5
8131 Lamps and light fittings, n.e.s.	0.6	0.7	0.9	1.3	1.5
8513 Footwear, n.e.s., rubber or plastic soles and uppers	0.9	0.9	1.0	1.1	1.1
8211 Seats (excl. of 872.4), and parts	0.9	1.1	1.0	1.0	1.0
8973 Jewellery of gold, silver or platinum metals	0.9	1.2	1.4	2.2	0.9
Other	0.1	0.1	0.1	0.1	0.1

Source: UNSD, Comtrade database (SITC Rev.3).

Table A1.4 China's merchandise imports by product group, 2011-15

	2011	2012	2013	2014	2015
Total imports (US$ billion)	**1,743.4**	**1,818.2**	**1,950.0**	**1,958.0**	**1,681.7**
			(% of total)		
Imports under processing trade	26.9	26.5	25.5	26.8	26.6
Total primary products	37.9	38.0	36.4	35.6	30.8
Agriculture	8.3	8.6	8.5	8.7	9.5
Food	4.3	5.0	5.1	5.4	6.1
2222 Soya beans	1.7	1.9	1.9	2.1	2.1
Agricultural raw material	4.0	3.6	3.4	3.3	3.4
Mining	29.6	29.4	27.9	26.9	21.3
Ores and other minerals	10.6	9.1	9.1	8.2	6.9
2815 Iron ores and concentrates, not agglomerated	6.1	5.0	5.2	4.6	3.3
2831 Copper ores and concentrates	0.9	0.9	1.0	1.1	1.2
2882 Other non-ferrous base metal waste	1.2	1.0	0.9	0.7	0.7
Non-ferrous metals	3.2	3.0	2.6	2.5	2.6
6821 Copper anodes; alloys; unwrought	1.7	1.8	1.5	1.5	1.4
Fuels	15.8	17.2	16.2	16.2	11.8
3330 Crude oils of petroleum and bituminous minerals	11.3	12.1	11.3	11.7	8.0
Manufactures	59.2	58.2	58.2	60.2	64.4
Iron and steel	1.6	1.3	1.1	1.1	1.2
Chemicals	10.4	9.8	9.7	9.8	10.2
5112 Cyclic hydrocarbons	0.9	0.9	1.2	1.1	1.0
Other semi-manufactures	2.8	2.7	2.8	4.1	3.2
Machinery and transport equipment	36.2	35.9	36.4	37.0	40.9
Power generating machines	0.8	0.8	0.7	0.8	0.8
Other non-electrical machinery	7.1	5.7	5.1	5.4	5.6
7284 Machinery and appliances for particular industries, n.e.s.	1.7	1.0	1.0	1.2	1.3
Office machines & telecommunication equipment	17.5	19.1	20.2	19.3	22.9
7764 Electronic integrated circuits and microassemblies	9.8	10.6	11.9	11.1	13.7
7649 Parts and accessories for apparatus of division 76	2.0	2.3	2.5	2.4	2.9
7763 Diodes, transistors, etc.	1.0	1.0	1.1	1.2	1.4
7527 Storage units for data processing	1.3	1.4	1.0	1.0	1.0
7599 Parts and accessories of 751.1, 751.2, 751.9 and 752	1.0	1.0	0.9	1.0	1.0
Other electrical machines	5.1	4.7	4.8	4.8	5.1
7725 Switches, relays, etc. for a voltage not exceeding 1000 V	0.8	0.8	0.7	0.8	0.8
7722 Printed circuits	0.8	0.8	0.7	0.7	0.7
Automotive products	4.0	4.1	4.0	4.8	4.3
7812 Motor vehicles for the transport of persons, n.e.s.	2.3	2.5	2.4	3.0	2.6
7843 Other motor vehicle parts and accessories of 722, 781 to 783	1.2	1.2	1.2	1.4	1.4
Other transport equipment	1.6	1.6	1.7	2.0	2.2
7924 Aeroplanes, etc. (excl. helicopters), >15,000 kg unladen	0.6	0.8	1.0	1.3	1.5
Textiles	1.1	1.1	1.1	1.0	1.1
Clothing	0.2	0.2	0.3	0.3	0.4
Other consumer goods	7.1	7.2	6.8	6.7	7.5
8719 Liquid crystal devices, n.e.s.; lasers (excl. laser diodes)	3.0	3.1	2.8	2.6	2.8
Other	2.8	3.8	5.4	4.2	4.8

Source: UNSD, Comtrade database (SITC Rev.3).

Table A1.5 China's merchandise exports by destination, 2011-15

	2011	2012	2013	2014	2015
Total exports (US$ billion)	**1,898.4**	**2,048.8**	**2,209.0**	**2,342.3**	**2,281.9**
	(% of total)				
America	24.8	25.1	24.1	24.0	25.1
United States	17.1	17.2	16.7	17.0	18.0
Other America	7.7	7.9	7.4	7.1	7.1
Mexico	1.3	1.3	1.3	1.4	1.5
Canada	1.3	1.4	1.3	1.3	1.3
Brazil	1.7	1.6	1.6	1.5	1.2
Europe	20.1	17.5	16.5	17.0	16.8
EU-28	18.8	16.4	15.4	15.8	15.6
Germany	4.0	3.4	3.0	3.1	3.0
United Kingdom	2.3	2.3	2.3	2.4	2.6
The Netherlands	3.1	2.9	2.7	2.8	2.6
Italy	1.8	1.3	1.2	1.2	1.2
France	1.6	1.3	1.2	1.2	1.2
EFTA	0.4	0.3	0.3	0.3	0.3
Other Europe	0.9	0.8	0.8	0.9	0.9
Commonwealth of Independent States (CIS)	3.5	3.7	3.8	3.7	2.5
Russian Federation	2.0	2.2	2.2	2.3	1.5
Africa	3.8	4.2	4.2	4.5	4.6
Middle East	4.2	4.2	4.4	5.0	4.8
United Arab Emirates	1.4	1.4	1.5	1.7	1.6
Asia	43.5	45.3	47.1	45.8	46.0
Hong Kong, China	14.1	15.8	17.4	15.5	14.6
Japan	7.8	7.4	6.8	6.4	6.0
Korea, Rep. of	4.4	4.3	4.1	4.3	4.4
Viet Nam	1.5	1.7	2.2	2.7	2.9
India	2.7	2.3	2.2	2.3	2.6
Singapore	1.9	2.0	2.1	2.1	2.3
Chinese Taipei	1.8	1.8	1.8	2.0	2.0
Malaysia	1.5	1.8	0.0	2.0	1.9
Australia	1.8	1.8	1.7	1.7	1.8
Thailand	1.4	1.5	1.5	1.5	1.7
Indonesia	1.5	1.7	1.7	1.7	1.5
Memorandum:					
APEC	61.3	63.8	65.0	63.8	63.8
ASEAN	9.0	10.0	11.0	11.6	12.2

Source: UNSD, Comtrade database.

Table A1.6 China's merchandise imports by origin, 2011-15

	2011	2012	2013	2014	2015
Total imports (US$ billion)	**1,743.4**	**1,818.2**	**1,950.0**	**1,958.0**	**1,681.7**
			(% of total)		
America	15.1	15.5	15.6	15.9	16.7
United States	7.1	7.4	7.9	8.2	9.0
Other America	8.1	8.2	7.8	7.7	7.7
Brazil	3.0	2.9	2.8	2.6	2.6
Canada	1.3	1.3	1.3	1.3	1.6
Chile	1.2	1.1	1.1	1.1	1.1
Europe	14.1	13.3	14.6	14.9	15.4
EU-28	12.1	11.7	11.3	12.4	12.4
Germany	5.3	5.1	4.8	5.4	5.2
France	1.3	1.3	1.2	1.4	1.5
United Kingdom	0.8	0.9	1.0	1.2	1.1
Italy	1.0	0.9	0.9	1.0	1.0
EFTA	1.8	1.4	3.1	2.3	2.7
Switzerland	1.6	1.3	2.9	2.1	2.5
Other Europe	0.2	0.2	0.3	0.2	0.2
Commonwealth of Independent States (CIS)	3.8	4.0	3.6	3.4	3.2
Russian Federation	2.3	2.4	2.0	2.1	2.0
Africa	5.3	6.2	6.0	5.9	4.0
South Africa	1.8	2.5	2.5	2.3	1.8
Middle East	7.7	8.0	8.0	8.2	6.0
Saudi Arabia	2.8	3.0	2.7	2.5	1.8
Asia	46.6	44.7	43.8	44.1	45.9
Korea, Rep. of	9.3	9.3	9.4	9.7	10.4
Chinese Taipei	7.2	7.3	8.0	7.8	8.6
Japan	11.2	9.8	8.3	8.3	8.5
Australia	4.7	4.7	5.1	5.0	4.4
Malaysia	3.6	3.2	3.1	2.8	3.2
Thailand	2.2	2.1	2.0	2.0	2.2
Singapore	1.6	1.6	1.5	1.6	1.6
Viet Nam	0.6	0.9	0.9	1.0	1.5
Indonesia	1.8	1.8	1.6	1.3	1.2
Philippines	1.0	1.1	0.9	1.1	1.1
Other	7.4	8.2	8.3	7.5	8.7
Free Zone China[a]	7.0	7.9	8.1	7.4	8.6
Memorandum:					
APEC	64.4	64.0	63.4	62.7	67.3
ASEAN	11.1	10.8	10.2	10.6	11.3

a Includes goods that have been exported from China and thereafter re-imported into China.

Source: UNSD, Comtrade database.

Table A2.1 Main notifications under WTO Agreements (1 January 2014-1 March 2016, (or last notification if applicable)

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/29, 02/02/2016
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 18.2	Table DS:1 – Domestic support	G/AG/N/CHN/28, 06/05/2015
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 Switzerland and China	WT/REG351/N/1-S/C/N/742, 02/07/2014
Article XXIV:7(a) of GATT 1994 and Article V:7(a) of GATS	Free Trade Agreement between Iceland and China	WT/REG355/N/1-S/C/N/771, 13/10/2014
Article XXIV:7(a) of GATT 1994 and Article V:7(a) of GATS	Free Trade Agreement between Australia and China	WT/REG369/N/1-S/C/N/858, 27/01/2016
Article XXIV:7(a) of GATT 1994 and Article V:7(a) of GATS	Free Trade Agreement between Republic of Korea and China	WT/REG370/N/1-S/C/N/854, 02/03/2016
Enabling Clause		
Enabling Clause – LDCs	Duty-free treatment for LDCs	WT/COMTD/N/39/Add.1/Rev.1, 01/12/2011
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 G/ADP/N/259/CHN, 18/09/2014 G/ADP/N/265/CHN, 23/01/2015 G/ADP/N/272/CHN, 09/10/2015
Article 18.5, and Article 32.6 of the Agreement on Subsidies and Countervailing Measures	Regulations on anti-dumping	G/ADP/N/1/CHN/2/Suppl.3, 20/10/2004
	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.38 - G/SCM/N/18/Add.38, 7 October 2014
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 for the period 2003-2014	G/STR/N/10/CHN-G/STR/N/11/CHN-G/STR/N/12/CHN-G/STR/N/13/CHN-G/STR/N/14/CHN-G/STR/N/15/CHN, 19/10/2015
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		
Articles III:4 and IV:2	Contact and enquiry points	S/ENQ/78/Rev.15, 04/02/2015
Article V:7(a) of GATS (already referred to)	Notification of RTA – Switzerland and China	S/C/N/742, 02/07/2014
Article V:7(a) of GATS (already referred to)	Notification of RTA – Iceland and China	S/C/N/771, 13/10/2014
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	S/C/N/264/Add.8, 17/03/2015 S/C/N/265/Add.7, 13/11/2013 S/C/N/265/Add.8, 31/03/2015
Article VII:4	Existing Article VII:1 recognition measures	None

Agreement	Requirement/content	Document symbol and date of latest notification
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/13, 22/01/2015
Quantitative Restrictions		
QR - (G/L/59) - biennial	Notification of quantitative restrictions	G/MA/NTM/QR/1/Add.13, 24/04/2015
Committee on Market Access	Notification pursuant to the Decision on Notification Procedures for Quantitative Restrictions (G/L/59/Rev.1)	G/MA/QR/N/CHN/1-3, 24/04/2015
Agreement on Rules of Origin		
Article 5 and Paragraph 4 of Annex II	Preferential and non-preferential rules of origin	G/RO/N/132, 07/09/2015
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 12.6	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 2016 = 44 (21.01.2016)	G/SPS/N/CHN/1021-1050
Article 7 and Annex B	Notifications in 2015 = 305	G/SPS/N/CHN/703-1006
Article 7 and Annex B	Notifications in 2014 = 68	G/SPS/N/CHN/635-749
Article 7 and Annex B	Enquiry points	G/SPS/ENQ/26, 11/03/2011
Agreement on Subsidies and Countervailing Measures		
Article 25.1	Programmes granted or maintained at the central government level during the period from 2009 to 2014	G/SCM/N/220/CHN - G/SCM/N/253/CHN- G/SCM/N/284/CHN, 30/10/2015
Article 25.11	Semi-annual report on countervailing duty actions	G/SCM/N/281/CHN, 28/01/2015
Article 32.6	Notification of the amended Foreign Trade Law	G/SCM/N/1/CHN/1/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	Coal Fireworks and firecrackers	G/TBT/N/CHN/1057, 18/09/2014 G/TBT/N/CHN/1071-1074, 24/03/2015
Article 2.9	Notification of technical regulations:	
	Notifications in 2014 = 50	G/TBT/N/CHN/1018-1064, 31/01/2014-12/12/2014 G/TBT/N/CHN/78/Add.1, 06/10/2014 G/TBT/N/CHN/806/Add.1, 03/06/2014; G/TBT/N/CHN/983/Suppl.1, 21/01/2014
	Notifications in 2015 = 101	G/TBT/N/CHN/1065-1161, 05/01/2015-17/12/2015; G/TBT/N/CHN/145/Rev.2, 17/12/2015; G/TBT/N/CHN/248/Rev.1, 17/12/2015; G/TBT/N/CHN/256/Rev.1, 29/10.2015; G/TBT/N/CHN/327/Rev.1, 29/10/2015; G/TBT/N/CHN/261/Add.1, 13/02/2015; G/TBT/N/CHN/724/Add.1, 13/02/2015; G/TBT/N/CHN/783/Add.1, 02/06/2015;

Agreement	Requirement/content	Document symbol and date of latest notification
		G/TBT/N/CHN/253/Rev.1, 01/10/2015; G/TBT/N/CHN/216/Rev.1, 13/02/2015
	Notifications in 2016 = 10	G/TBT/N/CHN/1162-1170, 07.01.2016-08.03.2016 G/TBT/N/CHN/1152/Rev.1, 08/01/2016
Article 5.6		G/TBT/N/CHN/1130, 25/08/2015
Article 5.7		None during the period
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 Secretariat.

Table A2.2 WTO dispute settlement cases involving China, 1 January 2014-1 March 2016

(In reverse chronological order)

Subject	Respondent/ complainant/ appellant	Request for consultation received	Status (as at 31 Dec. 2015)	WTO document series
China as respondent				
Tax Measures Concerning Certain Domestically Produced Aircraft	China/ United States	8/12/2015	Panel not established	WT/DS501
Measures Related to Demonstration Bases and Common Service Platforms Programmes	China/ United States	11/02/2015	Panel established, but not yet composed	WT/DS489
Anti-Dumping Measures on Imports of Cellulose Pulp from Canada	China/Canada	15/10/2014	Panel composed	WT/DS483
China as complainant				
Measures Affecting Tariff Concessions on Certain Poultry Meat Products	European Union/ China	08/04/2015	Panel established, but not yet composed	WT/DS492
China as a third party				
Certain Measures Concerning Taxation and Charges	Brazil/Japan	02/07/2015	Panel composed	WT/DS497
Safeguard on Certain Iron or Steel Products	Indonesia/Viet Nam	01/06/2015	Panel composed	WT/DS496
Import Bans, and Testing and Certification Requirements for Radionuclides	Korea, Republic of/Japan	21/05/2015	Panel composed	WT/DS495
Anti-Dumping and Countervailing Measures on Certain Coated Paper from Indonesia	United States/ Indonesia	13/03/2015	Panel composed	WT/DS491
Safeguard on Certain Iron or Steel Products	Indonesia/ Chinese Taipei	12/02/2015	Panel composed	WT/DS490
Anti-Dumping Measures on Certain Oil Country Tubular Goods from Korea	United States/ Korea, Republic of	22/12/2014	Panel composed	WT/DS488
Conditional Tax Incentives for Large Civil Aircraft	United States/ European Union	19/12/2014	Panel composed	WT/DS487
Countervailing Measures on Certain Polyethylene Terephthalate from Pakistan	European Union/ Pakistan	05/11/2014	Panel composed	WT/DS486
Tariff Treatment of Certain Agricultural and Manufacturing Products	Russian Federation/ European Union	31/10/2014	Panel Composed	WT/DS485
Measures Concerning the Importation of Chicken Meat and Chicken Products	Indonesia/Brazil	16/10/2014	Panel established, but not yet composed	WT/DS484
Anti-Dumping Measures on Imports of Certain Carbon Steel Welded Pipe from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu	Canada/ Chinese Taipei	25/06/2014	Panel composed	WT/DS482
Anti-Dumping Measures on Biodiesel from Indonesia	European Union/ Indonesia	10/06/2014	Panel established, but not yet composed	WT/DS480
Anti-Dumping Duties on Light Commercial Vehicles from Germany and Italy	Russian Federation/ European Union	21/05/2014	Panel composed	WT/DS479
Importation of Horticultural Products, Animals and Animal Products	United States/ Indonesia	08/05/2014	Panel established, but not yet composed	WT/DS478
Importation of Horticultural Products, Animals and Animal Products	New Zealand/ Indonesia	08/05/2014	Panel established, but not yet composed	WT/DS477
Certain Measures Relating to the Energy Sector	European Union/ Russian Federation	30/04/2014	Panel established, but not yet composed	WT/DS476
Measures on the Importation of Live Pigs, Pork and Other Pig Products from the European Union	European Union/ Russian Federation	08/04/2014	Panel composed	WT/DS475

Source: WTO Secretariat.

Table A2.3 Industries in which FDI was/is restricted, 2011 and/or 2015

(The shaded areas refer to activities that are different in either Catalogue. Each Catalogue assigns different numbering for the same activity)

2011	2015
I. Agricultural, Forestry, Livestock and Fishery Industries	**I. Agricultural, Forestry, Livestock and Fishery Industries**
1. Selection and cultivation of new varieties of crops, and production of seeds (with Chinese parties as the controlling shareholders)	1. Selection and cultivation of new varieties of crops, and production of seeds (with Chinese parties as the controlling shareholders)
2. Processing of the lumber of precious varieties of trees (limited to Sino-foreign equity/cooperative joint venture operations)	Not listed in the 2015 Catalogue
3. Processing of cotton (seed cotton)	Not listed in the 2015 Catalogue
II. Mining Industry	**II. Mining Industry**
1. Exploration and mining of special and rare kinds of coal (with Chinese parties as the controlling shareholders)	2. Exploration and mining of special and rare kinds of coal (with Chinese parties as the controlling shareholders)
2. Exploration and mining of barites (limited to Sino-foreign equity/cooperative joint venture operations)	Not listed in the 2015 Catalogue
3. Exploration and mining of noble metals (gold, silver and platinum group)	3. Exploration and mining of noble metals (gold, silver and platinum group)
4. Exploration and mining of diamonds, high-aluminium fireclay, wollastonite, graphite and other important non-metallic metals	4. Exploration and mining of graphite
5. Mining and mine selection of phosphorus mines, lithium mines and iron sulphur mines, extraction of brine resources from salt lake	5. Mining and mine selection of lithium mines
6. Mining of szaibelyite and ludwigite	Not listed in the 2015 Catalogue
7. Mining of celestite	Not listed in the 2015 Catalogue
8. Mining of marine manganese nodule and sea sand (with Chinese parties as the controlling shareholders)	Not listed in the 2015 Catalogue
III. Manufacturing Industry	**III. Manufacturing Industries**
(I) Agricultural Products, By-products and Food Processing Industry	Not listed in the 2015 Catalogue
1. Processing of edible oils and fats from soybean, rapeseed, peanut, cottonseed, camellia seed, sunflower seed, palm (with Chinese parties as the controlling shareholders), processing of rice, flour, and deep processing of corn	6. Processing of edible oils and fats from soybean, rapeseed, peanut, cottonseed, camellia seed, sunflower seed, palm (with Chinese parties as the controlling shareholders), processing of rice, flour and crude sugar, and deep processing of corn
2. Production of biological liquid fuels (fuel ethanol and biodiesel) (with Chinese parties as the controlling shareholders)	7. Production of biological liquid fuels (fuel ethanol and biodiesel) (with Chinese parties as the controlling shareholders)
(II) Beverage Manufacturing Industry	Not listed in the 2015 Catalogue
1. Production of rice wine and famous-brand spirits (with Chinese parties as the controlling shareholders)	Not listed in the 2015 Catalogue
(III) Tobacco Products Industry	Not listed in the 2015 Catalogue
1. Processing and production of threshed and re-dried tobacco leaves	Not listed in the 2015 Catalogue
(IV) Printing Industry and Reproduction of Recording Media	Not listed in the 2015 Catalogue
1. Printing of publications (with Chinese parties as the controlling shareholders)	8. Printing of publications (with Chinese parties as the controlling shareholders)
(V) Petroleum Processing, Coking and Nuclear Fuel Processing Industries	Not listed in the 2015 Catalogue
1. Atmospheric and vacuum refinery with the annual output below 10 million tons, catalytic cracking with an annual output below 1.5 million tons, continuous reforming (including aromatics extraction) with an annual output below 1 million tons, hydrogen cracking production with an annual output below 1.5 million tons	Not listed in the 2015 Catalogue
(VI) Manufacturing of Chemical Raw Materials and Chemical Products	Not listed in the 2015 Catalogue
1. Production of calcined soda and caustic soda, as well as sulphuric acid, nitric acid and potassium carbonate of limited output or with an obsolete process	Not listed in the 2015 Catalogue
2. Production of photosensitive materials	Not listed in the 2015 Catalogue
3. Production of benzidine	Not listed in the 2015 Catalogue
4. Production of precursor chemicals (ephedrine, 3,4-methylenedioxyphenyl-2-propanone, phenylacetic acid, 1-phenyl-2-propanone, piperonal, safrole, iso-safrole and acetic oxide)	Not listed in the 2015 Catalogue
5. Production of hydrogen fluoride and other low-end chlorofluorocarbons or chlorofluoro-compounds	Not listed in the 2015 Catalogue
6. Production of butadiene rubber (excluding high cis-butadiene rubber), emulsion polymerized styrene butadiene rubber (E-SBR) and thermoplastic styrene-butadiene-styrene (SBS) rubber	Not listed in the 2015 Catalogue

2011	2015
7. Production of PVC through the acetylene method, and production of ethene of limited output and post-processing products	Not listed in the 2015 Catalogue
8. Production of dyes and paints using an obsolete process, containing hazardous substances, and of limited output	Not listed in the 2015 Catalogue
9. Processing of ludwigite	Not listed in the 2015 Catalogue
10. Production of inorganic salt which uses large amounts of resources, causes serious environment pollution, and uses obsolete processes	Not listed in the 2015 Catalogue
(VII) Medical and Pharmaceutical Products Manufacturing	Not listed in the 2015 Catalogue
1. Production of chloramphenicol, penicillin G, jiemycin, gentamicin, dihydrostreptomycin, amikacin, totomycin, oxytetracycline, mydecamycin, leucomycin (stereomycin), ciprofloxacin, norfloxacin and ofloxacin	Not listed in the 2015 Catalogue
2. Production of analgin, paracetamol, Vitamin B1, Vitamin B2, Vitamin C, Vitamin E, multiplex vitamin preparations and oral calcium preparations	Not listed in the 2015 Catalogue
3. Production of varieties of vaccines which have been incorporated into the national immunity planning	Not listed in the 2015 Catalogue
4. Production of active pharmaceutical ingredients (APIs) for anaesthetics and Category I psychotropic drugs (with Chinese parties as the controlling shareholders)	Not listed in the 2015 Catalogue
5. Production of blood products	Not listed in the 2015 Catalogue
(VIII) Chemical Fibre Manufacturing	Not listed in the 2015 Catalogue
1. Production of chemical fibre drawn-work of conventional copolyester (CoPET) 2. Production of viscose fibres	Not listed in the 2015 Catalogue
(IX) Smelting and Rolling of Non-ferrous Metals	Not listed in the 2015 Catalogue
1. Smelting of rare metals including tungsten, molybdenum, tin (excluding tin compounds) antimony (including antimony oxides and antimony sulphides)	9. Smelting of rare metals including tungsten, molybdenum, tin (excluding tin compounds), antimony (including antimony oxides and antimony sulphides)
2. Smelting of non-ferrous metals including electrolytic aluminium, copper, lead and zinc	Not listed in the 2015 Catalogue
3. Smelting and separation of rare earth elements (limited to Sino-foreign equity/cooperative joint venture operations)	10. Smelting and separation of rare earth (limited to Sino-foreign equity/cooperative joint venture operations)
(X) General-Purpose Equipment Manufacturing	Not listed in the 2015 Catalogue
1. Manufacture of various types of general grade (P0) bearings and their components (steel balls and cages) and roughcasts	Not listed in the 2015 Catalogue
2. Manufacture of wheeled, caterpillar hoisting machinery with a lifting capacity of less than 400 tons (limited to Sino-foreign equity/cooperative joint venture operations)	Not listed in the 2015 Catalogue
(XI) Special-Purpose Equipment Manufacturing	Not listed in the 2015 Catalogue
1. Manufacture of equipment for ordinary dacron filament and short fibre	Not listed in the 2015 Catalogue
2. Manufacture of bulldozers of 320 horsepower or less, hydraulic excavators of 30 tons or less, wheeled loaders of 6 tons or less, graders, road rollers, and forklifts of 220 horsepower or less, electrically driven off-highway dump trucks of 135 tons or less, hydro-mechanically driven off-highway dump trucks of 60 tons or less, asphalt concrete mixing and paving equipment and high-altitude operation machinery, garden machinery and tools and ready-mixed concrete machinery (pilot pumps, agitating lorries, mixing stations and pump trucks)	Not listed in the 2015 Catalogue
(XII) Manufacturing of Transportation and Communication Equipment	Not listed in the 2015 Catalogue
Not listed in the 2011 Catalogue	11. Manufacturing of automobile whole vehicles, special-use vehicles and motorcycles: Chinese parties shall hold at least 50% of the shares. One foreign investor may establish two or less equity joint ventures in mainland China to manufacture the same category of whole vehicle products (i.e. the category of passenger cars, the category of commercial vehicles or the category of motorcycles), provided that the foregoing restrictions on the maximum of two joint ventures are not applicable if the same foreign investor engages in the merger of other domestic auto manufacturers jointly with its Chinese joint venture partners
1. Repair, design and manufacture of vessels (including sections) (with Chinese parties as the controlling shareholders)	12. Repair, design and manufacture of vessels (including sections) (with Chinese parties as the controlling shareholders)
(XIII) Manufacturing of Communication Equipment, Computers and Other Electronic Equipment	Not listed in the 2015 Catalogue
1. Production of satellite telecasting ground receiving facilities and key components	13. Production of satellite telecasting ground receiving facilities and key components

2011	2015
IV. Industries of Production and Supply of Power, Gas and Water	**IV. Industries of Production and Supply of Power, Thermal Power, Gas and Water**
1. Construction and operation, in small grids, of power plants using coal-fired and steam condensation thermal generator sets with a single generator capacity of 300,000 kW or less, and thermoelectric power stations using coal-fired, steam condensation and extraction thermal generator sets with a single generator capacity of 100,000 kW or less	14. Construction and operation, in small grids, of power plants using coal-fired and steam condensation thermal generator sets with a single generator capacity of 300,000 kW or less, and thermoelectric power stations using coal-fired, steam condensation and extraction thermal generator sets with a single generator capacity of 100,000 kW or less
2. Construction and operation of grids (with Chinese parties as the controlling shareholders)	Not listed in the 2015 Catalogue
3. Construction and operation of pipeline networks for gas, heat, water supply and sewage in cities with a population over 0.5 million (with Chinese parties as the controlling shareholders)	15. Construction and operation of pipeline networks for gas, heat, water supply and sewage in cities with a population over 0.5 million (with Chinese parties as the controlling shareholders)
V. Transportation, Storage & Warehousing and Postal Services Industries	**V. Transportation, Storage & Warehousing and Postal Services Industries**
1. Railway freight transport companies	Not listed in the 2015 Catalogue
2. Railway passenger transport companies (with Chinese parties as the controlling shareholders)	16. Railway passenger transport companies (with Chinese parties as the controlling shareholders)
3. Highway passenger transport companies	17. Highway passenger transport companies
4. Cross-boundary automobile transport companies	Not listed in the 2015 Catalogue
5. Water transport companies (with Chinese parties as the controlling shareholders)	18. Water transport companies (with Chinese parties as the controlling shareholders)
6. General aviation companies for photography, prospecting and industrial purposes (with Chinese parties as the controlling shareholders)	19. General aviation companies for business flights, air sightseeing tours, photography, prospecting and industrial purposes (with Chinese parties as the controlling shareholders)
Not listed in the 2011 Catalogue	**VI. Information Transmission, Software and Information Technology Service Industries**
7. Telecommunication companies: value-added telecommunication services (with the proportion of foreign investment not exceeding 50%); basic telecommunication services (with the proportion of foreign capital not exceeding 49%)	20. Telecommunications companies: value-added telecommunications services (with the proportion of foreign investment not exceeding 50%, excluding e-commerce); basic telecommunications services (with the proportion of foreign capital not exceeding 49%)
VI. Wholesale and Retail Industries	**VII. Wholesale and Retail Industries**
1. Direct sales, mail orders, and online sales	Not listed in the 2015 Catalogue
2. Purchase of grains; wholesale, retail, and distribution of grains, cotton, vegetable oil, sugar, tobacco, crude oil, agricultural chemicals, agricultural plastic film and fertilizers (in the case of chain stores having established more than 30 stores and selling products of different varieties and brands from multiple suppliers, the Chinese parties shall be the controlling shareholders)	21. Purchase of grains, wholesale of grains and cotton, and construction and operation of large-scale agricultural products wholesale markets
3. Construction and operation of large-scale agricultural products wholesale market	Not listed in the 2015 Catalogue
4. Distribution of audio-video products (excluding movies) (limited to Sino-foreign cooperative joint venture operations)	Not listed in the 2015 Catalogue
5. Vessel agencies (with Chinese parties as the controlling shareholders) and ocean shipping tally companies (limited to Sino-foreign equity/cooperative joint venture operations)	22. Vessel agencies (with Chinese parties as the controlling shareholders) and ocean shipping tally companies (limited to Sino-foreign equity/cooperative joint venture operations)
6. Wholesale of product oil, and construction and operation of gas stations (in the case of those having established more than 30 chain gas stations funded by the same foreign investors and selling product oil of different varieties and brands from multiple suppliers, the Chinese parties shall be the controlling shareholders)	23. Construction and operation of gas stations (in the case of those having established more than 30 chain gas stations funded by the same foreign investors and selling product oil of different varieties and brands from multiple suppliers, the Chinese parties shall be the controlling shareholders)
VII. Finance Industry	**VIII. Finance Industry**
1. Banks, financial companies, trust companies, and currency brokerage companies	24. Banks (a single overseas financial institution and the affiliated parties under its control or joint control are only allowed to invest in not more than 20% of the shares of a single Chinese-funded commercial bank as promoters or strategic investors; multiple overseas financial institutions and the affiliated parties under their control or joint control are only allowed to invest in a total of not more than 25% of the shares of a single Chinese-funded commercial bank as promoters or strategic investors; and, overseas financial institutions investing in rural small and medium-sized financial institutions shall be banking financial institutions)
2. Insurance companies (in the case of life insurance companies, the proportion of foreign investment shall not exceed 50%)	25. Insurance companies (in the case of life insurance companies, the proportion of foreign investment shall not exceed 50%)

2011	2015
3. Securities companies (limited to underwriting of A Shares, underwriting and transaction of B Shares, H Shares, and government and corporate bonds, with the proportion of foreign investment not exceeding one third), and securities investment fund management companies (with the proportion of foreign investment not exceeding 49%)	26. Securities companies (a securities company is limited to engaging in the underwriting and sponsorship of ordinary RMB-denominated shares, foreign shares, treasury bonds and corporate bonds, the brokerage of foreign shares, and the brokerage and proprietary trading of treasury bonds and corporate bonds upon establishment, and may apply for expanding its business scope two years after establishment if it satisfies relevant conditions. The proportion of foreign investment in a securities company shall not exceed 49%), and securities investment fund management companies (with the proportion of foreign investment not exceeding 49%)
4. Insurance brokerage companies	Not listed in the 2015 Catalogue
5. Futures companies (with Chinese parties as the controlling shareholders)	27. Futures companies (with Chinese parties as the controlling shareholders)
VIII. Real Estate Industry	Not listed in the 2015 Catalogue
1. Development of tracts of land (limited to Sino-foreign equity/cooperative joint venture operations)	Not listed in the 2015 Catalogue
2. Construction and operation of high-class hotels, high-class office buildings and international exhibition centres	Not listed in the 2015 Catalogue
3. Real estate secondary market transactions and real estate intermediary or brokerage companies	Not listed in the 2015 Catalogue
IX. Leasing and Commercial Services Industries	**IX. Leasing and Commercial Services Industries**
1. Legal consulting	Not listed in the 2015 Catalogue
2. Market investigations (limited to Sino-foreign equity/cooperative joint venture operations)	28. Market investigations (limited to Sino-foreign equity/cooperative joint venture operations; specifically, Chinese parties shall be the controlling shareholders for survey of television and radio programme ratings)
3. Credit investigation and rating service companies	29. Credit investigation and rating service companies
X. Scientific Research, Technological Services and Geological Exploration Industries	**X. Scientific Research and Technological Services Industries**
1. Surveying and mapping companies (with Chinese parties as the controlling shareholders)	30. Surveying and mapping companies (with Chinese parties as the controlling shareholders)
2. Import and export goods inspection, appraisal and certification companies	Not listed in the 2015 Catalogue
3. Photography services (including aerial photography and other trick photography services but excluding aerial photography for survey and mapping purposes; limited to Sino-foreign equity joint venture operations)	Not listed in the 2015 Catalogue
XI. Education	**XI. Education**[a]
Not listed in the 2011 Catalogue	31. Institutions of higher learning (limited to Sino-foreign cooperative joint venture operations led by Chinese parties)
1. Ordinary senior high schools (limited to Sino-foreign cooperative joint venture operations)	32. Ordinary senior high schools (limited to Sino-foreign cooperative joint venture operations led by Chinese parties)
Not listed in the 2011 Catalogue	33. Pre-school education institutions (limited to Sino-foreign cooperative joint venture operations led by Chinese parties)
Not listed in the 2011 Catalogue	**XII. Health and Social Work**
Not listed in the 2011 Catalogue	34. Medical institutions (limited to Sino-foreign equity/cooperative joint venture operations)
XII. Cultural, Sports and Entertainment Industries	**XIII. Cultural, Sports and Entertainment Industries**
1. Production of radio and television programmes and movies (limited to Sino-foreign cooperative joint venture operations)	35. Production of radio and television programmes and movies (limited to Sino-foreign cooperative joint venture operations)
2. Construction and operation of movie theatres (with Chinese parties as the controlling shareholders)	36. Construction and operation of cinemas (with Chinese parties as the controlling shareholders)
3. Construction and operation of large theme parks	37. Construction and operation of large theme parks
4. Performance brokerage agencies (with Chinese parties as the controlling shareholders)	38. Performance agency institutions (with Chinese parties as the controlling shareholders)
5. Operation of recreation places (limited to Sino-foreign equity/cooperative joint venture operations)	Not listed in the 2015 Catalogue
XIII. Other Industries Restricted by the State or by the International Treaties that China Has Concluded or Acceded to	**XIV. Other Industries Restricted by State Laws and Regulations or by the International Treaties that China Has Concluded or Acceded to**

a Led by Chinese parties means: (i) that those in charge of the administrative matters in an institution of higher learning must be Chinese nationals; and (ii) that at least half of the members of the council, board of directors or joint management committee of an institution run with foreign cooperation must be Chinese nationals.

Source: WTO Secretariat, based on the Catalogue of Industries for the Guidance of Foreign Investment (2011 Revision) and Catalogue of Industries for the Guidance of Foreign Investment (2015 Revision).

Table A2.4 Industries in which FDI was/is prohibited, 2011 and/or 2015

(The shaded areas refer to activities that are different in either Catalogue. Each Catalogue assigns different numbering for the same activity)

2011	2015
I. Agricultural, Forestry, Livestock and Fishery Industries	**I. Agricultural, Forestry, Livestock and Fishery Industries**
1. Research and development, breeding and planting of China's rare and special varieties, and production of relevant breeding materials (including quality genes in planting industry, husbandry and aquaculture)	1. Research and development, breeding and planting of China's rare and special varieties, and production of relevant breeding materials (including quality genes in planting industry, husbandry and aquaculture)
2. Research and development of genetically modified varieties, and production of genetically modified crop seeds, breeding livestock and poultry, and aquatic fingerlings	2. Seed selection of the genetically modified varieties of crop seeds, breeding livestock and poultry, and aquatic fingerlings, and the production of their genetically modified seeds (seedlings)
3. Fishing in the sea area and inland waters under China's jurisdiction	3. Fishing in the sea area and inland waters under China's jurisdiction
II. Mining Industry	**II. Mining Industry**
1. Exploration and mining of tungsten, molybdenum, tin, stibonium and fluorite	4. Exploration and mining of tungsten, molybdenum, tin, stibonium and fluorite
2. Exploration, mining and selection of rare earth elements	5. Exploration, mining and selection of rare earth elements
3. Exploration, mining and selection of radioactive minerals	6. Exploration, mining and selection of radioactive minerals
III. Manufacturing Industry	**III. Manufacturing Industries**
1. Beverage Industry	**Not listed in the 2015 Catalogue**
(1) Processing of green tea and special tea with China's traditional crafts (famous tea, dark tea, etc.)	Not listed in the 2015 Catalogue
2. Medical and Pharmaceutical Products Manufacturing Industry	**(I) Medical and Pharmaceutical Products Manufacturing Industry**
(1) Processing of traditional Chinese medicinal materials listed in the Regulations on the Administration for Protection of Wild Medicinal Resources and the Catalogue of China's Rare and Endangered Plants under Protection	7. Processing of traditional Chinese medicinal materials listed in the Regulations on the Administration for Protection of Wild Medicinal Resources and the Catalogue of China's Rare and Endangered Plants under Protection
(2) Application of such processing techniques as steaming, stir-frying, moxibustion, and calcination for making small pieces of ready-for-use traditional Chinese medicines; and production of traditional Chinese patent medicine of secret prescriptions	8. Application of such processing techniques as steaming, stir-frying, moxibustion, and calcination for making small pieces of ready-for-use traditional Chinese medicines; and production of traditional Chinese patent medicine of secret prescriptions
3. Non-Ferrous Metal Smelting and Rolling Processing Industry	**(II) Petroleum Processing, Coking and Nuclear Fuel Processing**
(1) Radioactive mineral smelting and processing	9. Radioactive mineral smelting and processing, and nuclear fuel production
4. Special-Purpose Equipment Manufacturing Industry	**(III) Special-Purpose Equipment Manufacturing Industry**
(1) Manufacturing of weapons and ammunition	10. Manufacturing of weapons and ammunition
5. Electric Machinery and Equipment Manufacture Industry	Not listed in the 2015 Catalogue
(1) Manufacture of open-lead-acid cells, mercury button-type silver oxide cells, paste dioxide-zinc battery and nickel cadmium cells	Not listed in the 2015 Catalogue
6. Industry Products and Other Manufacturing Industries	**(IV) Other Manufacturing Industries**
(1) Ivory carving	11. Ivory carving
(2) Tiger bone processing	12. Tiger bone processing
(3) Production of bodiless lacquerware	Not listed in the 2015 Catalogue
(4) Production of enamel products	Not listed in the 2015 Catalogue
(5) Production of Xuan paper and Chinese ink ingot	13. Production of Xuan paper and Chinese ink ingot
(6) Production of carcinogenic, teratogenic, mutagenesis and persistent organic pollutant products	Not listed in the 2015 Catalogue
IV. Power, Gas and Water Production and Supply Industries	**IV. Power, Thermal Power, Gas and Water Production and Supply Industries**
1. Construction and operation, outside small grids, of power plants using coal-fired and steam condensation thermal generator sets with a single generator capacity of 300,000 kW or less, and thermoelectric power stations using coal-fired, steam condensation and extraction thermal generator sets with a single generator capacity of 100,000 kW or less	14. Construction and operation, within large grids, of power plants using coal-fired and steam condensation thermal generator sets with a single generator capacity of 300,000 kW or less, and thermoelectric power stations using coal-fired, steam condensation and extraction thermal generator sets with a single generator capacity of 200,000 kW or less
V. Transportation, Storage & Warehousing and Postal Services Industries	**V. Transportation, Storage & Warehousing and Postal Services Industries**
1. Companies of air traffic control	15. Air traffic control
2. Postal companies; domestic express delivery service of mail	16. Postal companies; domestic express delivery service of mail
Not listed in the 2011 Catalogue	**VI. Wholesale and Retail Industries**
Not listed in the 2011 Catalogue	17. Wholesale and retail of tobacco leaves, cigarettes, re-dried tobacco leaves and other tobacco products
VI. Leasing and Commercial Service Industry	**VII. Leasing and Commercial Services Industries**
1. Social investigation	18. Social investigations

2011	2015
Not listed in the 2011 Catalogue	19. Consulting on Chinese legal affairs (excluding the provision of information on the environmental impact of Chinese laws)
VII. Scientific Research and Technical Services Industries, Geological Prospecting	**VIII. Scientific Research and Technological Services Industries**
1. Development and application of human stem cells and gene diagnosis and treatment technology	20. Development and application of human stem cell and genetic diagnosis and treatment technology
2. Geodetic surveying, marine charting, aerial photography for surveying and mapping purposes, administrative boundary surveying and mapping, compilation of topographic maps and general map compilations, and compilations of electronic maps for navigation purposes	21. Geodetic surveying, marine charting, aerial photography for surveying and mapping purposes, administrative boundary surveying and mapping, compilation of topographic maps, maps of world political zones, national administrative divisions and administrative divisions at and below the provincial level, national teaching maps, local teaching maps and true three-dimensional maps, compilation of electronic maps for navigation purposes, regional geological mapping, mineral geology, geophysics, geochemistry, hydrogeology, environmental geology, geological disasters, geological remote sensing and other surveys
VIII. Water Conservancy, Environmental, and Public Facilities Management Industries	**IX. Water Conservancy, Environmental, and Public Facilities Management Industries**
1. Construction and operation of natural reserves and internationally important wetlands 2. Development of wild animal and plant resources originated in and protected by China	22. Construction and operation of natural reserves and internationally important wetlands 23. Development of wild animal and plant resources originated in and protected by China
IX. Education	**X. Education**
1. Compulsory education institutions, education institutions in military affairs, police, politics and other special fields, and Party schools	24. Compulsory education institutions, education institutions in military affairs, police, politics and other special fields, and Party schools
X. Cultural, Sports and Entertainment Industries	**XI. Cultural, Sports and Entertainment Industries**
1. News agencies	25. News agencies
2. Publishing of books, newspapers, and periodicals and importing of books, newspapers and periodicals	26. Publishing of books, newspapers, and periodicals
3. Publishing and production of audio-visual products and electronic publications	27. Publishing and production of audio-visual products and electronic publications
4. All radio stations, television stations, radio and television channels (frequencies), radio and television transmission and coverage networks (transmitting stations, relay stations, radio and television satellites, satellite uplink stations, satellite receiving and transmitting stations, microwave stations, monitoring stations, and cable radio and television transmission and coverage networks)	28. All radio stations, television stations, radio and television channels (frequencies), radio and television transmission and coverage networks (transmitting stations, relay stations, radio and television satellites, satellite uplink stations, satellite receiving and transmitting stations, microwave stations, monitoring stations, and cable radio and television transmission and coverage networks) at all levels
5. Radio and television programme production and operating companies	29. Radio and television programme production and operating companies
6. Movie production companies, distribution companies and cinema companies	30. Movie production companies, distribution companies and cinema chains
7. Operation of news websites, online audio and video programme streaming services, business premises for Internet access services, and Internet cultural business (excluding music)	31. Operation of news websites, online publication services, online audio and video programme streaming services, business premises for Internet access services, and Internet cultural business (excluding music)
Not listed in the 2011 Catalogue	32. Auction houses and cultural relics shops engaging in the auction of cultural relics
8. Construction and management of golf courses and villas	33. Construction of golf courses and villas
9. Gambling and lottery industry (including horse race tracks for gambling purposes)	Not listed in the 2015 Catalogue
10. Pornography industry	Not listed in the 2015 Catalogue
XI. Other Industries	**XII. Other Industries**
1. Projects endangering the safety and performance of military facilities	34. Projects endangering the safety and performance of military facilities
Not listed in the 2011 Catalogue	35. Gambling and lottery industry (including horse race tracks for gambling purposes)
Not listed in the 2011 Catalogue	36. Pornography industry
XII. Other Industries Prohibited by the State or International Treaties China has Concluded or Acceded to	**XIII. Other Industries Prohibited by State Laws and Regulations or by International Treaties China Has Concluded or Acceded to**

Source: WTO Secretariat, based on the Catalogue of Industries for the Guidance of Foreign Investment (2011 Revision) and Catalogue of Industries for the Guidance of Foreign Investment (2015 Revision).

Table A3.1 China's MFN applied tariff summary, 2015

	Number of lines	Average (%)	Range (%) MFN applied	Range (%) Bound	Standard deviation	Duty free (%)
Total	**8,285**	**9.5**	**0-65**	**0-65**	**7.5**	**9.7**
HS 01-24	1,361	13.8	0-65	0-65	10.6	9.0
HS 25-97	6,924	8.6	0-50	0-50	6.4	9.9
By WTO category						
WTO agricultural products	1,164	14.8	0-65	0-65	11.3	8.1
Animals and products thereof	170	12.7	0-25	0-25	7.5	18.2
Dairy products	21	12.1	2-20	6-20	3.8	0.0
Fruit, vegetables, and plants	387	13.9	0-30	0-30	7.6	6.2
Coffee and tea	31	14.9	2-32	8-32	7.2	0.0
Cereals and preparations	127	23.3	0-65	0-65	20.6	7.9
Oils seeds, fats, oil and their products	108	10.5	0-30	0-30	7.0	12.0
Sugars and confectionary	19	30.9	8-50	8-50	16.7	0.0
Beverages, spirits and tobacco	63	21.8	0-65	0-65	14.9	1.6
Cotton	5	22.0	10-40	10-40	14.7	0.0
Other agricultural products, n.e.s.	233	12.1	0-38	0-38	7.8	6.4
WTO non-agricultural products	7,121	8.6	0-50	0-50	6.2	10.0
Fish and fishery products	306	10.1	0-23	0-23	4.4	9.2
Minerals and metals	1,247	7.4	0-50	0-50	6.3	8.9
Chemicals and photographic supplies	1,362	6.3	0-47	0-47	3.9	5.1
Wood, pulp, paper and furniture	392	4.2	0-20	0-20	3.9	37.2
Textiles	845	9.7	2-38	2-38	4.0	0.0
Clothing	299	16.0	14-25	14-25	2.1	0.0
Leather, rubber, footwear and travel goods	224	12.7	0-25	0-25	6.2	0.4
Non-electric machinery	1,016	7.5	0-35	0-35	5.1	13.9
Electric machinery	461	8.4	0-35	0-35	7.9	27.1
Transport equipment	336	13.3	0-45	0-45	9.5	0.3
Non-agricultural products, n.e.s.	613	11.0	0-35	0-35	7.6	14.2
Petroleum	20	4.8	0-9	0-9	3.0	15.0
By HS section						
01 Live animals and products	488	11.5	0-25	0-25	6.1	13.3
02 Vegetable products	511	14.1	0-65	0-65	12.9	11.0
03 Fats and oils	56	12.6	4-30	5-30	5.8	0.0
04 Prepared food, beverages and tobacco	306	17.4	0-65	0-65	11.5	0.3
05 Mineral products	201	3.0	0-11	0-12	2.7	27.4
06 Chemicals and products thereof	1,289	6.4	0-50	0-50	4.8	5.4
07 Plastics, rubber, and articles thereof	274	9.2	0-25	0-25	4.4	0.4
08 Raw hides and skins, leather, and its products	106	12.0	3-23	5-23	5.5	0.0
09 Wood and articles of wood	208	4.4	0-20	0-20	4.3	36.5
10 Pulp of wood, paper and paperboard	162	5.2	0-7.5	0-7.5	3.1	21.6
11 Textiles and textile articles	1,141	11.4	1-40	3-40	5.0	0.0
12 Footwear, headgear, etc.	71	17.9	10-25	10-25	5.8	0.0
13 Articles of stone, plaster, cement	197	12.8	0-28	0-28	5.3	0.5
14 Precious stones and metals, pearls	90	10.0	0-35	0-35	12.8	38.9
15 Base metals and articles thereof	770	7.0	0-30	0-30	4.3	3.1
16 Machinery, electrical equipment, etc.	1,512	7.9	0-35	0-35	6.4	18.9
17 Transport equipment	351	13.1	0-45	0-45	9.4	0.3
18 Precision equipment	335	9.4	0-30	0-30	6.4	10.1
19 Arms and ammunition	21	13.0	13-13	13-15	0.0	0.0
20 Miscellaneous manufactured articles	186	10.7	0-25	0-25	8.9	34.9
21 Works of art, etc.	10	8.0	0-14	0-14	5.1	20.0

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 A3.2 Tax preferences at the central level, 2015

Government tax preference policies
A. 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 employees, and total assets not exceeding RMB 30 million. (ii) Other enterprises, with annual taxable income not exceeding RMB 300,000, with fewer than 80 employees, 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.
B. Other tax exemptions
1. Imported items to be used in: the encouraged industries listed in the "Catalogues 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. An 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.
C. 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 μm, 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 μm, after certification, from the first profit earning year, it is exempted from enterprise income tax in the first and the second year and 50% tax is collected

Government tax preference policies
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: Online information. Viewed at: http://en.xasourcing.gov.cn/swj/policys/localpolicy/local0013.html; and information provided by the Chinese authorities.

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