

**Trade Policy Review Body**

**TRADE POLICY REVIEW**

**Report by the Secretariat**

**CHINA**

This report, prepared for the third 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/230 contains the policy statement submitted by China.

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



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## SUMMARY

1. Since its previous Trade Policy Review in 2008, China has continued the gradual liberalization of its international trade and investment regime. According to the Government, gradualism in economic reform is motivated by the need to maintain economic and social stability.

2. China's dependence on export-led growth left it vulnerable to the effects of the global economic recession that began in late 2008. In 2009, China's exports fell by 16%. Imports fell by 11%, reflecting the high import-intensity of its manufactured exports. Real GDP growth declined from 9.6% in 2008 to a year-on-year rate of 6.2% in the first quarter of 2009, the lowest rate in more than a decade. However, growth rebounded in subsequent quarters so that in 2009 overall, China achieved real GDP growth of 8.7%. In January 2010, China overtook Germany to become the world's largest exporter. China remains the world's second largest importer, behind the United States.

3. China's evident success in competing for global markets and its continued heavy dependence on manufactured exports leaves it vulnerable to trade friction with its trading partners. Membership in the WTO provides China with considerable legal security against a significant tightening of restrictions on its exports. Like other WTO Members, China resisted a protectionist response to the effects of the global economic recession.

4. The Chinese Government responded to the effects of the global economic recession by introducing expansionary fiscal and monetary policies to offset the sharp decline in external demand, putting more emphasis on domestic demand to drive GDP growth. In particular, China announced a Y 4 trillion (13% of GDP in 2008) economic stimulus package in November 2008, covering a period of two years. Partly reflecting the temporary increase in government expenditure, the surplus of domestic savings over domestic investment declined, and China's current

account surplus, the international counterpart of China's domestic saving and investment balance in its balance of payments, narrowed from 9.4% in 2008 to 5.8% in 2009.

5. The Government recognizes that temporary measures alone are not sufficient to correct imbalances in China's pattern of economic growth and development, which are macroeconomic and structural in nature. Achieving a better balance between external and domestic demand to drive its growth, and further liberalization of its import and export policies multilaterally will reinforce China's leadership role in helping, together with other WTO Members, to manage periodic trade and economic imbalances of international importance in ways that minimize the risk to global growth and prosperity.

6. The crisis has reinforced China's intention to undertake more longer-term structural reforms that are needed to strengthen its social safety net, reduce precautionary saving by households, diversify its economic structure, and to improve its underdeveloped capital market, which has contributed to high enterprise saving and thus impeded the Government's efforts to boost domestic demand.

7. In order to rely less on manufacturing, the Government has relaxed FDI restrictions on some services sectors and is promoting the expansion of agriculture by providing production subsidies and phasing out agricultural taxes.

8. China's heavy reliance on manufacturing has resulted in over-investment and hence excess capacity in certain industries, which became obvious when external demand declined. Over-investment is partly the consequence of the absence of a sufficiently well-functioning capital market, monetary policy that is not entirely based on market instruments, and the Government's "guidance" in allocating resources to specific manufacturing activities.

9. China has continued its efforts to develop its capital market in order to facilitate the channelling of high domestic savings into the most profitable investments by, for example, strengthening corporate governance and the trading of shares on the stock market and thereby increasing the role of equity finance. Furthermore, as the authorities recognize, China needs to enhance the transparency of government policies and measures, increase dividend payments by state-owned enterprises to the Government, and strengthen the protection of intellectual property rights.

10. On China's exchange rate, between July 2005 (when its exchange rate reform started) and September 2008, the renminbi (RMB) appreciated by 21.4% against the U.S. dollar, 13.6% against the yen, and remained practically unchanged against the euro. Since then, the RMB has remained stable against the U.S. dollar and depreciated against some major currencies (for example, the euro) in 2009. At the time of its most recent examination of this issue, the IMF welcomed the important progress made in the past few years in increasing the market's role in determining the exchange rate, as well as the consequent substantial real appreciation that has been achieved since the exchange rate reform in 2005. Some IMF directors nevertheless supported the view that the RMB remains "substantially undervalued". The Peoples Bank of China (PBC) maintains that under China's "managed floating" exchange rate regime, the RMB rate is based on supply and demand of the market and is adjusted with reference to a basket of currencies; it wishes to maintain the exchange rate of the RMB basically stable at an adaptative and balanced level.

11. While China has recently intensified its pursuit of bilateral/regional free-trade agreements, preferential margins provided by China are still small and trade with FTA partners still accounts for a minor share of its total trade. During the review period, direct cross-straits links were established between

China and Chinese Taipei in terms of air and maritime transport and postal services.

12. China's average applied MFN tariff was 9.5% in 2009, slightly lower than in 2007 (9.7%). Bound rates are close to the applied rates, giving the tariff a high degree of predictability. Nonetheless, the tariff could be complex, as, for example, the applied MFN tariff contains 60 different *ad valorem* rates.

13. China still uses various non-tariff border measures, such as import and export licensing or state trading to "guide" the allocation of resources. China's trade remedy activity is assuming increasing importance, while China remains the most frequent target of anti-dumping measures.

14. Around 15% of China's national standards are mandatory. The rest are voluntary, although their implementation can be complex. Some 46% of its national standards are equivalent to international standards. Its SPS regime on the testing of dairy products for domestic consumption and for exports has been strengthened, and China has suspended its quality inspection exemption system.

15. China's Government Procurement Law stipulates that the Government should procure domestic goods, projects, and services, although there are no provisions on local content or rules of origin to determine whether a product is produced domestically. China applied to join the WTO GPA in December 2007. Parties have expressed their willingness to work with China to facilitate its accession process, although some parties have expressed concerns in the WTO GPA Committee regarding, *inter alia*, China's indigenous innovation initiative. China's accession to the GPA should bring fundamental changes to its government procurement framework.

16. China's export barriers have not been falling at the same pace as its import barriers. It still uses various export restrictions, including prohibitions, licensing, quotas,

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taxes, and less-than-full VAT rebates, to manage certain exports on grounds of natural resource and energy conservation. However, export restraints tend to reduce export volumes of the targeted products and divert supplies to the domestic market, leading to downward pressure on the domestic prices of these products, and thus may implicitly assist domestic downstream processing of the products concerned. China is starting to consider more suitable internal (rather than trade) measures to conserve natural resources, save energy, and protect the environment. For example, it is considering levying an environmental tax on the production/extraction of natural resources during the 12<sup>th</sup> Five-Year plan period (2011-15).

17. China has continued to review, revise, or amend its trade and related laws. These include the Anti-Monopoly Law (effective 1 August 2008), China's first comprehensive competition law and the Patent Law (effective 1 October 2009), which strengthened patent protection by, *inter alia*, increasing penalties against infringement. China has also reformed its tax system to render it more neutral; in particular, this involved the unification of enterprise income tax rates for all companies (domestic and foreign), and the transformation of VAT from a production-based tax to a consumption-based one.

18. China has continued to improve its legislative framework and intensify the enforcement of IPR protection, and has identified the promotion of innovation as a

national development strategy. The country has become increasingly aware of the importance of IPR protection in facilitating domestic innovation. Enforcing IPRs at the border is the responsibility of Customs, and China pays special attention to IPR protection in respect of exports. Following a dispute at the WTO on the enforcement of IPRs, China notified that it is revising its Copyright Law based on recommendations and rulings of the DSB.

19. Since its previous review, China has relaxed restrictions on FDI in services, notably in telecommunications and tourism, and the Central Government has been delegating to local governments licensing authority for the establishment and modification of operations of "encouraged" foreign-invested enterprises (FIEs) and certain selected sectors, as well as certain types of FIEs, such as foreign-invested joint-stock companies. Nonetheless, there are still significant restrictions, such as foreign participation limits, on foreign investment in some sectors and private-sector activities.

20. In banking, stringent qualification requirements remain, including high minimum asset requirements on sole or controlling shareholders and high minimum paid-up capital amounts, restrictions on the supply of credit-card services, and restrictions on the business scope of foreign banks branches. The stock market in China has continued to develop during the period under review, and the process of converting shares of SOEs to be traded in the market has progressed.



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## I. ECONOMIC ENVIRONMENT

### (1) CHINA'S TRADE AND DEVELOPMENT POLICIES

1. Since 1978, China has pursued a strategy of gradual transition from a centrally planned to a market-based economy coupled with an "open door" policy that has involved substantial liberalization of its international trade and investment regimes. This strategy has delivered sustained and rapid real economic growth averaging about 10% annually between 1978 and 2008, and has seen GDP per capita increase fifteen-fold from around US\$220 to US\$3,400.

2. Economic reforms began in the agriculture sector. Linking remuneration to output and granting autonomy to farming households produced large increases in agricultural productivity, which has allowed China to liberalize agricultural imports considerably and still compete effectively with overseas producers. During this process exposure to international trade has improved agricultural productivity further. The reform also freed surplus labour from agricultural activities, which has been a source of productivity increases in other sectors of the economy.

3. Trade and investment liberalization played an important role in extending China's reform programme to the manufacturing sector. Special economic zones (SEZs) were separated from the rest of the predominantly state-controlled economy and largely freed from import and export restrictions. These attracted foreign direct investment (FDI) in manufactured export processing, provided China with access to imported technology and overseas marketing networks, and created new job opportunities and training for China's labour force. The SEZs were expanded to other kinds of zones specialized in high technologies, free-trade zones, and bonded areas to encourage processing trade. Processing trade now accounts for around 40% of China's total international trade (imports and exports). Foreign invested enterprises (FIEs) were attracted to invest in the zones also by favourable tax incentives<sup>1</sup>, although these incentives are being phased out as China unified its enterprise income tax on FIEs and domestic enterprises in 2008. FIEs currently account for more than 50% of China's foreign trade and around 84% of its processing trade.

4. Beyond the SEZs, China has considerably reduced its tariffs and other barriers to imports. China's simple average applied MFN tariff rate was cut from around 50% in the early 1980s to 15.6% in 2001 and to 9.5% in 2009. In 2009, tariffs accounted for 2.5% of total tax revenue. Import quotas were eliminated in 2005. China's export regime has also been simplified, but it remains complex and measures continue to be used to manage certain exports. Membership in the WTO has acted as a catalyst for trade policy reform in China, particularly of import barriers, and provided China with the security of the rules-based trading system on which to base its export growth. Total merchandise exports and imports were equivalent to 44% of GDP in 2009, up from less than 10% in 1978. China considers its participation in regional and bilateral agreements to be complementary to its membership in the multilateral trading system and to offer it additional ways of expanding and diversifying its trade.

5. China's liberalization of trade and FDI has stimulated competition in the economy and contributed to the improved competitiveness of domestic producers. Starting from the mid 1990s, the Government began to privatize and restructure state-owned enterprises (SOEs) and to facilitate the development of private enterprise. FDI has encouraged both the emergence of the private sector and the scaling-back and restructuring of the SOEs. Although the Government is still "guiding" the allocation of resources in the economy, the market is playing an increasingly important role and the private sector now accounts for more than 60% of GDP.

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<sup>1</sup> WTO (2006).

6. China's dependence on export-led growth, particularly as a global platform for exports of manufactured products, left it vulnerable to the effects of the global economic recession that began in late 2008. In 2009, China's exports fell by 16% and its imports fell by 11%, reflecting the high import-intensity of its manufactured export sector (Table I.1). Real GDP growth declined from 9.6% in 2008 to a year-on-year rate of 6.2% in the first quarter of 2009, the lowest rate in more than a decade.

**Table I.1**  
**Selected macroeconomic indicators, 2005-09**

	2005	2006	2007	2008	2009
Nominal GDP (Y billion) <sup>a</sup>	18,493.7	21,631.4	26,581.0	31,404.5	33,535.3
Nominal GDP (US\$ billion)	2,256.9	2,712.9	3,494.0	4,519.5	4,909.0
Real GDP (Y billion, 2005 prices)	18,493.7	20,838.1	23,789.3	26,081.3	28,353.1
Real GDP (US\$ billion, 2005 prices)	2,256.9	2,613.4	3,127.1	3,753.4	4,150.4
GDP per capita (Y)	14,185.4	16,499.7	20,169.5	23,707.7	..
GDP per capita (US\$)	1,731.1	2,069.3	2,651.3	3,411.8	..
<b>National accounts (%age change)</b>					
Real GDP	11.3	12.7	14.2	9.6	8.7
Consumption <sup>b</sup>	4.0	4.5	5.3	4.1	4.6
Investment <sup>b</sup>	3.9	4.9	5.1	4.1	8.0
Net exports <sup>b</sup>	2.5	2.2	2.6	0.8	-3.9
Unemployment rate (%) <sup>c</sup>	4.2	4.1	4.0	4.2	4.3
<b>Prices and interest rates</b>					
Inflation (CPI, %age change)	1.8	1.5	4.8	5.9	-0.7
Lending rate (% , period average)	5.58	6.12	7.47	5.31	..
Deposit rate (% , period average)	2.25	2.52	4.14	2.25	..
<b>Money and credit (%age change, end period)</b>					
Money supply (M2)	18.0	15.7	16.7	17.8	27.7
Credit to private sector (end period)	11.7	17.2	13.9	12.4	..
<b>Exchange rate</b>					
Yuan per US\$ (period average) <sup>d</sup>	8.194	7.973	7.608	6.949	6.831
Real effective exchange rate index (%age change) <sup>e</sup>	-0.2	2.1	5.0	8.5	..
Nominal effective exchange rate index (%age change)	0.1	2.7	2.2	6.0	..
<b>Fiscal policy<sup>f</sup> (% of GDP)</b>					
Government balance	-1.3	-0.8	0.6	-0.4	-2.8
Total revenue	17.2	18.3	19.9	19.5	20.6
Tax revenue	15.6	16.1	17.2	17.3	17.7
Total expenditure	18.5	19.1	19.3	19.9	23.4
Public sector total debt <sup>g</sup>	17.6	16.2	20.2	17.7	21.0
Domestic debt	17.2	15.9	..	..	..
<b>Saving and investment</b>					
GDP by expenditure approach (Y billion)	18,869.2	22,165.1	26,309.8	30,686.0	..
Final consumption expenditure (Y billion)	9,782.3	11,059.5	12,879.4	14,911.3	..
Gross capital formation (Y billion)	8,064.6	9,440.2	11,091.9	13,361.2	..
Net export of goods and services (Y billion)	1,022.3	1,665.4	2,338.1	2,413.5	..
Savings (Y billion)	8,834.6	10,486.4	13,340.5	15,774.7	..

Table I.1 (cont'd)

	2005	2006	2007	2008	2009
Savings to expenditure approach GDP (%)	46.8	47.3	50.7	51.4	..
Investment to expenditure approach GDP (%)	42.7	42.6	42.2	43.5	..
Savings-Investment gap (% of GDP)	4.1	4.7	8.5	7.9	..
<b>External sector (% of GDP, unless otherwise indicated)</b>					
Current account balance	7.1	9.2	10.6	9.4	5.8
Net merchandise trade	5.9	8.0	9.0	8.0	5.1
Value of exports	33.8	35.7	34.9	31.7	24.5
Value of imports	27.8	27.7	25.9	23.8	19.4
Services balance	-0.4	-0.3	-0.2	-0.3	-0.6
Capital account	0.2	0.1	0.1	0.1	..
Financial account	2.6	0.2	2.0	0.4	..
Direct investment	3.0	2.2	3.5	2.1	0.7
Balance-of-payments	9.2	9.1	13.2	9.3	8.0
Merchandise exports <sup>h</sup> (%age change)	28.5	27.2	25.8	17.6	-16.1
Merchandise imports <sup>h</sup> (%age change)	17.6	19.7	20.3	18.7	-11.2
Service exports <sup>h</sup> (%age change)	19.2	23.6	32.8	20.4	..
Service imports <sup>h</sup> (%age change)	16.2	20.3	29.0	22.1	..
Gross official reserves <sup>i</sup> (US\$ billion; end period)	821.5	1,068.5	1,530.3	1,949.3	..
Foreign exchange <sup>j</sup> (US\$ billion; end period)	818.9	1,066.3	1,528.2	1,946.0	2,399.2
Total external debt (US\$ billion; end period)	281.0	323.0	373.6	374.7	..
Debt service ratio <sup>k</sup>	3.1	2.1	2.0	1.8	..

.. Not available.

a National GDP figures in Yuan billion reflect updated results from China's 2<sup>nd</sup> National Economic Census.

b Contribution to annual growth in per cent. Figures are taken from the National Bureau of Statistics of China, *Statistical Yearbook 2009*, Table 2-20.

c Registered unemployment in urban areas.

d Exchange rate figures are taken from IMF (2010), International Financial Statistics, February.

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

f Including central and local governments.

g For 2005 and 2006, raw public sector debt figures are taken from the National Bureau of Statistics of China, *Statistical Yearbook 2007*; percentage figures for 2007 to 2009 are taken from IMF (2009), Public Information Notice No. 09/87.

h Growth rates on merchandise and service trade are based on US dollars.

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

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

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

*Source:* National Bureau of Statistics of China, *Statistical Yearbook (various issues)*; National Bureau of Statistics online information. Viewed at: [http://www.stats.gov.cn/english/newsandcomingevents/t20100121\\_402615502.htm](http://www.stats.gov.cn/english/newsandcomingevents/t20100121_402615502.htm) [22/01/2010]; and [http://www.stats.gov.cn/english/newsandcomingevents/t20100203\\_402619228.htm](http://www.stats.gov.cn/english/newsandcomingevents/t20100203_402619228.htm) [10/02/2010]; Ministry of Finance online information. Viewed at: [http://www.mof.gov.cn/mof/zhengwuxinxi/caizhengxinwen/201003/t20100316\\_276816.html](http://www.mof.gov.cn/mof/zhengwuxinxi/caizhengxinwen/201003/t20100316_276816.html) (in Chinese) [16/03/10]. State Administration of Foreign Exchange; and data provided by the authorities.

7. Like other WTO Members, China in general resisted a protectionist response to the effects of the global economic crisis (Table AI.1). Since its last Review in 2008, China has maintained its long-term strategy of gradually opening up its economy to international trade and FDI.

8. The Chinese Government responded to the crisis with expansionary fiscal and monetary policies and the introduction of a large economic stimulus package designed, collectively, to boost

domestic demand and help sustain economic growth in the face of the sharp decline in external demand.

9. In 2009, total Government revenue increased by 11.7% while total Government expenditure rose by 21.2%, leading to an increase in the budget deficit from 0.4% of GDP in 2008 to 2.8% of GDP in 2009. Part of the increase in budget expenditure was directed to education, medical care, and social security. In April 2009, the Government announced an additional three-year health care reform amounting to a Y 850 billion investment that aims to lay the foundation for equal access to essential health care for all in China by 2020.<sup>2</sup> The 2009 budget also forecast a central government debt to GDP ratio of no more than 20%.<sup>3</sup> The central Government debt is around 60% of GDP when off-budget government debt is included, such as debt owed by policy banks, local governments, asset management companies, pension, and banks' non-performing loans.<sup>4</sup>

10. Building on the strength of its fiscal position, China announced an economic stimulus package in November 2008 involving the injection of an additional Y 4 trillion (13% of 2008 GDP) for investment in the economy in 2009-10.

11. The People's Bank of China (PBC) announced a shift from a tight monetary policy to a moderately loose one in September 2008, to help stimulate domestic demand. Since then, interest rates and reserve requirements have been cut several times and foreign exchange sterilization operations have been reduced. A large part of the stimulus package is to be implemented through increased bank lending (only Y 1.18 trillion of the package will come from the Central Government budget). Moreover, in 2009, while keeping benchmark lending costs unchanged, the PBC has been encouraging banks to provide loans, through, *inter alia*, "window guidance". New bank lending increased rapidly in 2009, almost doubling from the previous year to Y 9.6 trillion.<sup>5</sup> Conscious of the risks of excessively loose monetary policy contributing to inflationary pressures and compounding the misallocation of credit in the economy, the PBC began to reduce monetary stimulus in 2010 by increasing the reserve requirement ratio.

12. Between July 2005 (when China's exchange rate reform started) and September 2008, the renminbi (RMB) appreciated by 21.4% against the U.S. dollar, 13.6% against the yen, and remained practically unchanged against the euro.<sup>6</sup> Since then, the RMB has remained stable against the U.S. dollar, and depreciated against some major currencies (for example, the euro) in 2009.<sup>7</sup>

13. In its most recent public evaluation of China's exchange rate, the IMF welcomed the important progress made in the past few years in increasing the market's role in determining the exchange rate, as well as the consequent substantial real appreciation that has been achieved since the exchange rate reform in 2005. Some IMF directors nevertheless supported the view that the RMB remains "substantially undervalued". Looking ahead, many directors considered that a further strengthening of the RMB would be part of a comprehensive strategy to rebalance the economy by increasing the purchasing power of households and the labour share of income, and reorienting investment toward non-tradable sectors. But a number of other directors pointed to the methodological difficulties of making exchange rate assessments. These directors generally

<sup>2</sup> *China Daily*, "China outlines plans on health care reform in 2009", 24 July 2009.

<sup>3</sup> Central Government online information. Viewed at : [http://www.gov.cn/2009lh/content\\_1259827\\_2.htm](http://www.gov.cn/2009lh/content_1259827_2.htm) (in Chinese) [20/10/09].

<sup>4</sup> Standard Chartered, "Spend, spend, spend: Our guide to China's 2009-10 fiscal stimulus package", January 2009.

<sup>5</sup> In 2009, M2 rose by 27.7%.

<sup>6</sup> PBC (2008).

<sup>7</sup> The exchange rate has remained within a band of Y 6.81–6.87 to the U.S. dollar.

considered that exchange rate appreciation would only play a supplementary role in supporting reforms to reorient the Chinese economy and should be pursued in a gradual manner, as and when conditions permit.<sup>8</sup>

14. The PBC maintains that under China's "managed floating" exchange rate regime, the RMB rate is based on supply and demand of the market and is adjusted with reference to a basket of currencies. Against the background of the global economic recession, when, according to the PBC, many governments allowed their currencies to depreciate in order to mitigate the negative impact of the crisis on their exports, China maintained a stable RMB exchange rate. The authorities state that in the future, China intends to further improve the managed floating exchange rate regime based on supply and demand of the market and with reference to a basket of currencies, and to maintain the exchange rate of the RMB basically stable at an adaptive and balanced level.

## (2) RECENT ECONOMIC AND TRADE DEVELOPMENTS

15. Following the introduction of more expansionary fiscal and monetary policies and the economic stimulus package at the end of 2008, fixed asset investment in China rose by 30% in 2009, industrial output rose 11% and retail sales rose by almost 17%. Real GDP growth rebounded from a year-on-year rate of 6.2% in the first quarter of 2009 to 7.9%, 9.1%, and 10.7%, respectively, in the second, third, and fourth quarters of the year. Overall, China achieved real GDP growth of 8.7% in 2009. Investment accounted for 8.0 percentage points of that total and consumption for 4.6 percentage points, but the decline in net exports dragged growth down by 3.9 percentage points. China's authorities consider that real GDP growth of 8% is needed to prevent unemployment from rising. The urban registered unemployment rate was 4.3% in 2009, up from 4.2% in 2008, but this is not considered to be an accurate indicator of China's true unemployment situation.<sup>9</sup> China's recorded consumer price index (CPI) fell by 0.7% in 2009, but it began rising again at the end of the year, by 0.6% and 1.9%, in November and December 2009, and 1.5% in January 2010.

16. China's international trade was significantly affected by the global economic crisis and the sharp contraction of demand in its traditional export markets, but not as much as many other WTO Members. In 2009 China's trade surplus fell by 34%, yet at the same time it overtook Germany to become the largest exporter in the world. Adding exports and imports together, China became the second largest trader in the world (after the United States), although it remains the third largest trader when counting the EU as one. Its exports and imports of goods and services accounted, respectively, for 35% and 27% of GDP in 2008, down from the 38% and 30% in 2007.

17. China's merchandise exports grew by 17% in 2008; in 2009, they declined by 16% due mainly to the drop in external demand. There is a sign of recovery, as exports rebounded by 21% year-on-year in January 2010. Manufacturing products remain the dominant component of China's exports, accounting for 93% of the total (Table AI.2). In 2009, exports of textiles and clothing declined relatively less than many other products, partly reflecting the phase-out of export restrictions under China's bilateral agreements (with the EU, the United States and South Africa).<sup>10</sup> Their share in total exports increased, while the share of machinery products declined (Table AI.2).

18. Of total exports, the share of processed exports fell from 51% to 48%. Under "processing trade", enterprises (mainly FIEs as they account for 84% of total exports and imports under processing trade) import inputs, assemble them in bonded areas in China, and export the assembled products. In

<sup>8</sup> IMF online information. Viewed at: [http://www.imf.org/external/np/sec/pn/2009/pn0987.htm#P26\\_395](http://www.imf.org/external/np/sec/pn/2009/pn0987.htm#P26_395) [20/10/09].

<sup>9</sup> Cai, Du and Wang (2009).

<sup>10</sup> WTO (2008).

the first half of 2009, both exports and imports under "processing trade" fell, reflecting the difficulties of FIEs after the outbreak of the global crisis in 2008. Processing trade started to recover in the second half of 2009.

19. China's merchandise imports increased by 18% in 2008; in 2009, they declined by 11% but rebounded in January 2010 by 85.5% year-on-year. Due to the fall in prices of primary products in 2009, particularly mining products, their import value and thus their share in total imports declined (from 27% in 2008 to 25% in 2009), although their import volumes continued to increase.<sup>11</sup> On the other hand, the share of manufactures in total imports continued to decline (Table AI.3). In the second half of 2009, partly reflecting improved domestic demand due to China's economic stimulus package, imports of machinery products were declining at a slower rate.

20. The main destinations for China's merchandise exports remain the EU, the United States, Hong Kong SAR, and Japan (Table AI.4). The main sources of its imports are Japan, the EU, Republic of Korea, Chinese Taipei, and the United States (Table AI.5). China has particularly large bilateral trade deficits with some Asian economies such as Chinese Taipei, Korea, and Japan, from where it imports components for final assembly for export to, *inter alia*, the United States and the EU. As an export platform in the global production chain, China continues to run large bilateral trade surpluses with the United States and the EU.

21. In 2008, trade in services increased rapidly in value and as a share of total trade. Services comprised 9.3% of China's total exports and 12.9% of its imports, up from 8.6% and 11.8%, respectively, in 2006.<sup>12</sup> Although remaining in deficit, China's exports of construction services, and of research and development increased rapidly in 2008, by 92%, and 57%, respectively. Imports of construction services, computer related services, and communication services increased by around 40-50%.<sup>13</sup>

22. Foreign investment in services has been increasing fast, with the share of services in total FDI rising from some 20% in 2001, to more than 40% in 2009. The authorities indicated that from 2001, when China joined the WTO, to the end of September 2009, more than 90,000 foreign-invested enterprises (FIEs) were set up in China to engage in services, with an investment value of more than US\$160 billion.

23. China remains one of the biggest recipients of FDI in the world. In 2008, it attracted US\$108 billion of FDI, up almost 30% from 2007.<sup>14</sup> However, the pattern of FDI inflows changed during the year, as FDI began to decrease from October 2008 and continued to fall by 18% in the first half of 2009.<sup>15</sup> The slowdown of FDI into China reflected not only the global financial crisis and hence the financial constraints for multinational corporations in the originating countries, but also declining external demand for China's exports.

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<sup>11</sup> MOFCOM online information. Viewed at: <http://zhs.mofcom.gov.cn/aarticle/Nocategory/200910/20091006592498.html> (in Chinese) [22/02/10].

<sup>12</sup> WTO Secretariat calculation, based on SAFE online information on balance of payments. Viewed at: [http://www.safe.gov.cn/model\\_safe/tjsj/tjsj\\_detail.jsp?ID=1105000000000000,37&id=5](http://www.safe.gov.cn/model_safe/tjsj/tjsj_detail.jsp?ID=1105000000000000,37&id=5) (in Chinese) [10/02/10].

<sup>13</sup> SAFE online information, BOP Table for 2008. Viewed at: [http://www.safe.gov.cn/model\\_safe/tjsj/tjsj\\_detail.jsp?ID=1105000000000000,37&id=5](http://www.safe.gov.cn/model_safe/tjsj/tjsj_detail.jsp?ID=1105000000000000,37&id=5) (in Chinese) [10/02/10].

<sup>14</sup> UNCTAD (2009).

<sup>15</sup> *China Daily*, "China GDP grows 7.1% in first half 2009", 16 July 2009.



24. China has become an important source of FDI. In 2008, it ranked 13<sup>th</sup> in the world, and FDI from China reached US\$52 billion, up by 132% from 2007.<sup>16</sup> Outflows from China continued to rise in 2009 as exchange rate fluctuations and falling asset prices abroad due to the global crisis all created opportunities for Chinese companies.<sup>17</sup> In 2008, the top three sectors for China's outward investment were: commercial services, financial services, and wholesale and retail services. The Government encourages Chinese companies to invest abroad, including in countries rich in natural resources.<sup>18</sup>

### (3) STRUCTURAL POLICIES

25. China's transition from a centrally planned to a market-based economy has brought important economic achievements, although it has been complex and is producing various economic imbalances along the way. Managing and correcting these imbalances represents a challenge for China's policymakers, both for domestic purposes and from an international perspective because of China's size and the depth of its integration into the global economy.

26. From the point of view of this Review, three features of China's current stage of economic development and reform stand out. One is China's large and persistent surplus of domestic savings over domestic investment, which has as its international counterpart China's current account surplus in its balance of payments. The second is China's heavy dependence on overseas demand for its manufactured exports to sustain economic growth. The third is overcapacity in several of China's core industries, particularly in the face of current reduced global demand for the output of those industries.

27. There are two key reasons for China's high saving rate (51% of GDP relative to domestic investment at 43% of GDP). One lies at the household level. The lack of a social safety net covering education and healthcare as well as retirement pensions, particularly in view of China's aging population<sup>19</sup>, leads to a high level of precautionary saving at all income levels. For example, rural families with annual income between Y 888 and Y 1,776 (roughly between US\$130 and US\$260) are estimated to save 17.5% of their income.<sup>20</sup> SOEs have in the past fulfilled, in part, the role of social safety net for a large proportion of the population, but the importance of SOEs has been steadily declining. Therefore, there has been an increasing need to establish a replacement social safety net. The second reason is the high enterprise saving rate. This can be attributed mainly to China's underdeveloped capital market, which functions largely on the basis of bank lending, with the main banks still under state ownership. As these banks have traditionally favoured lending to SOEs, private enterprises, which are playing an increasingly important role in the economy, have had to rely on their own savings in the form of retained earnings or on savings from relatives or family members to finance their investment (Chapter III).<sup>21</sup>

28. The structurally high propensity to save in China at the household and enterprise level impedes efforts by the authorities to boost domestic demand so as to achieve a more balanced growth path for the economy, including increasing the consumption of imported goods and services. Some elements of the stimulus packages introduced over the past two years can help to reverse China's chronic savings surplus, for example, the long-term investment in healthcare reform and increased

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<sup>16</sup> UNCTAD (2009).

<sup>17</sup> UNCTAD (2009).

<sup>18</sup> Bhaumik and Co (2009).

<sup>19</sup> The ratio of employed people to those over 65 years of age is projected to move from nearly 7:1 in 2005 to approximately 4:1 in 2025 (OECD, 2005, p. 53).

<sup>20</sup> World Bank (2009b).

<sup>21</sup> The authorities argue that banks have traditionally favoured enterprises with good credit standing (including SOEs), and companies with not so good credit standing have lacked financing channels.

government expenditure on education and pension reform, as long as it is sustained. However, much of the increase in government expenditure is likely to have only a temporary impact, so that a large part of the narrowing of the saving-investment gap in 2009, and concomitant reduction in the current account surplus to GDP ratio from 9.4% in 2008 to 5.8% in 2009 (Table I.1) could be reversed as fiscal stimulus is removed from the economy.

29. At the enterprise level, further reforms to modernize China's capital market, including its stock and bond markets, are needed to create a more efficient allocation of savings in the economy and reduce the need for discretionary saving by private enterprise. Gradual reform of China's capital market has continued since its last Review. In the past, China's stock market had a split-share structure, with large volumes of non-tradeable shares for listed SOEs and only around one third of the shares tradeable. China began converting non-tradeable shares into tradeable shares from 2005. By the end of 2010, about 87% of non-tradeable shares are to be floated, and the China Securities Regulatory Commission plans to have all shares floated in 2016. China's corporate bond market remains small, with outstanding bonds valued at only 3.5% of GDP. China allowed short-term commercial paper to be traded in the interbank market from 2005, and allowed the trading of medium-term notes in 2008. In 2007, a pilot programme began of trading longer-term bonds on China's two stock exchanges. Currently, insurance companies can purchase corporate bonds and listed banks (including foreign banks) can participate in bond trading on the interbank market.<sup>22</sup> However, small and medium-sized enterprises are still not allowed to issue corporate bonds, which obstructs their access to capital.<sup>23</sup>

30. China has relied in part on manufactured exports for the past 30 years to drive its high economic growth rate. Foreign investors from China's major trading partners have taken advantage of China's favourable investment climate and abundant labour supply to reallocate part of their production to China, and they have helped to turn China into a pre-eminent global export platform for manufactured goods that is now a key link in international supply chains.

31. In 2009, China's exports fell by 16% due to the cut in external demand, although in light of the severity of the global recession the impact will have been surprisingly short-lived if indications of strong export growth picking up again in early 2010 are confirmed. Nonetheless, the cut in external demand has prompted a rethink in China of changing its development strategy. President Hu Jintao has stated recently that China is to continue opening its economy and to promote domestic demand.<sup>24</sup> The Chinese Government recognizes that this will require long-term structural reforms to increase real incomes throughout all sectors of the economy and to increase the propensity to consume out of income. Further steps to liberalize the internal market and international trade can assist in this process. The Government is also taking steps to diversify the economy by promoting the development of agriculture and increasing the role of the services sector in generating growth and employment and developing large-scale consumer-services industries.<sup>25</sup> The State Council issued a document in March 2007 calling, *inter alia*, for a three percentage point increase in the share of services in GDP between 2005 and 2010, with a view to reaching 50% by 2020. In 2009, services

<sup>22</sup> Two foreign banks may even issue RMB-denominated bonds.

<sup>23</sup> The Company Law stipulates the minimum net asset requirement for a company to issue corporate bonds: Y 30 million for a stock limited company and Y 60 million for a limited liability company.

<sup>24</sup> *China economy* online information. Viewed at: [http://www.ce.cn/xwzx/gnsz/szyw/201002/04/t20100204\\_20918093.shtml](http://www.ce.cn/xwzx/gnsz/szyw/201002/04/t20100204_20918093.shtml) (in Chinese) [17/02/10].

<sup>25</sup> It seems that some local governments in China have begun to focus more on the quality and the constituents of economic growth. The Shanghai Municipal government, for example, has just announced that it will no longer rank its municipal districts by GDP growth rates (*Oriental Morning Post*, 22 December 2009. Viewed at: [http://epaper.dfdaily.com/dfzb/html/2009-12/22/content\\_178710.htm](http://epaper.dfdaily.com/dfzb/html/2009-12/22/content_178710.htm) (in Chinese) [12/02/10]).

accounted for 42.6% of GDP (up from 40.5% in 2005) (Table I.2). Market deregulation and liberalization has a particularly key role to play in achieving this objective (Chapter IV).

**Table I.2**  
**GDP by sector, 2005-09**

	2005	2006	2007	2008	2009
<b>GDP by industry at 1978 indices (annual %age change)</b>					
Agriculture, forestry and fishing	5.2	5.0	3.7	5.4	4.2
Industry <sup>a</sup>	11.6	12.9	14.9	9.9	8.3
Construction	16.0	17.2	16.2	9.5	18.2
Services	12.2	14.1	16.0	10.4	8.9
Transport, storage and communication	11.2	10.0	11.8	7.3	3.7
Wholesale and retail trade	13.0	19.5	20.2	15.9	12.3
Restaurants and hotels	12.3	12.6	9.6	9.6	5.2
Financial intermediation	13.8	25.9	27.6	13.3	13.4
Real estate	12.2	15.5	24.4	1.0	10.9
Other	11.9	10.8	11.3	11.0	7.5
<b>Share of main sectors in GDP (%)</b>					
Agriculture, forestry and fishing	12.1	11.1	10.8	10.7	10.6
Industry <sup>a</sup>	41.8	42.2	41.6	41.5	40.1
Construction	5.6	5.7	5.8	6.0	6.7
Services	40.5	40.9	41.9	41.8	42.6
Transport, storage and communication	5.8	5.6	5.5	5.2	5.1
Wholesale and retail trade	7.6	7.6	7.9	8.3	8.6
Restaurants and hotels	2.3	2.2	2.1	2.1	2.1
Financial intermediation	3.4	3.7	4.6	4.7	5.0
Real estate	4.6	4.8	5.2	4.7	5.0
Other	17.0	16.9	16.6	16.7	16.8

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

Source: Data provided by the authorities of China.

32. High household and enterprise savings in China have kept capital costs low. Input prices (such as energy, water, and land) have also been kept low as the Government emphasized the development of manufacturing, especially heavy industry.<sup>26</sup> Thus China's manufacturing tended towards over-investment and overcapacity. The abrupt reduction in external demand in 2009, however, highlighted the overcapacity of a number of China's core heavy manufacturing industries, such as steel, aluminium, and cement. Overcapacity and the consequent export pressure could lead not only to potential trade frictions but also more non-performing loans in the coming years.

33. The privileged position of SOEs also contributed to over-investment and overcapacity in the economy. The role of SOEs has been strengthened, if inadvertently and only temporarily, by the recent fiscal and financial stimulus measures that have targeted public investment in infrastructure and generated increased demand for capital-intensive manufactured products.<sup>27</sup> Although this increase in demand may provide temporary relief from conditions of industrial overcapacity, it will clearly not correct the underlying structural problem.

<sup>26</sup> European Chamber (2009).

<sup>27</sup> Standard Chartered (2009).

34. The Chinese Government is aware of this imbalance between demand and supply in China's industrial production and, in September 2009, the State Council announced measures to cut back expansion in certain key manufacturing industries. State guidance of this kind is a second-best policy approach. Structural reforms are needed to deal with the problem of over-investment and overcapacity in the economy. Measures could include stimulating domestic consumption, promoting the services industry, and reducing the role of the state in allocating resources by, *inter alia*, liberalizing and deregulating the domestic markets for capital and other inputs, allowing key prices to be market-determined, and placing state-owned and private enterprises on an equal footing in competing for resources (Chapter III).

## II. TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES

### (1) INTRODUCTION

1. China's overall trade policy aim has remained unchanged since its previous Trade Policy Review; it is to accelerate the opening of its economy to the outside world, to introduce foreign technology and know-how, develop foreign trade, and promote economic development that is "mutually beneficial" with its trading partners. In this context, China has recently concentrated more on the opening up of its services sectors.

2. China has continued to attach high importance to the multilateral trading system and has been participating actively in the Doha Development Agenda negotiations. China grants at least MFN treatment to all WTO Members, except El Salvador and some territories of EU member states. China has been a party to 15 WTO disputes since 2008, 4 as a complainant and 11 as a respondent.

3. China has continued to intensify its pursuit of bilateral/regional free-trade agreements; it considers that such agreements are complementary to the multilateral trading system. During the period under review, two free-trade agreements entered into force (China–New Zealand FTA on 1 October 2008, and China–Singapore FTA on 1 January 2009), and one was signed (China–Peru on 28 April 2009). Furthermore, one agreement on trade in services (China–Pakistan FTA Agreement on Trade in Services) entered into force on 10 October 2009, and one investment agreement (China–ASEAN FTA on Investment) was signed on 15 August 2009. Five further free trade agreements (with Australia, Costa–Rica, GCC, Iceland, and Norway) are being negotiated.

4. In 2009, China unilaterally granted preferential treatment to some products from 41 least developed countries (LDCs).

5. Although some aspects of China's trade policy regime remain unclear (e.g. apparent lack of criteria regarding the publication of regulations), China has continued to adopt measures to increase the transparency of its trade and trade-related policies, practices, and measures. Since its previous Trade Policy Review in 2008, it has adopted several new or revised trade-related laws, including the Anti-Monopoly Law, the Enterprise Income Tax Law, the Patent Law, and the Provisions on Disclosure of Government Information.

6. Since its previous review, China has relaxed restrictions on FDI in services, notably in telecommunications and tourism. Also, the central government has been delegating licensing authority to local governments for the establishment and modification of operations of "encouraged" FIEs and certain selected sectors (e.g. distribution, whose licensing process was fully decentralized on 12 September 2008), as well as certain types of FIEs, such as foreign invested joint-stock companies. Since 2008, all tax incentives apply equally to domestic firms and FIEs, except for some remaining preferential treatment accorded to FIEs due to "grandfathering", under the Enterprise Income Tax Law, and the exemption of FIEs from city maintenance tax and construction tax.

### (2) INSTITUTIONAL AND LEGAL FRAMEWORK

7. In 2008, an institutional change took place involving the restructuring and establishment of some agencies responsible for trade policy implementation (section (3)(ii)).<sup>1</sup> Since its previous Review, there has been no change in China's process of judicial review or for appeal regarding administrative actions related to the implementation of laws, regulations, judicial decisions, etc. in

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<sup>1</sup> The role of the Communist Party of China (CPC) in the legislative and law enforcement activities of the National People's Congress (NPC) has also largely remained unchanged. See WTO (2006), p. 31.

trade in goods and services, investment, and intellectual property rights, nor has there been change to the role of legislature and the Central Government. China's judicial system consists of the Supreme People's Court, the local people's courts at different levels, and special courts (e.g. military, railway, and maritime courts). The National People's Congress (NPC) and its Standing Committee exercise the legislative power of the State. The State Council, in which executive power is vested, is the Central Government.

8. China is party to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (for commercial disputes only). Under the Constitution and the Law on the Procedures of the Conclusion of Treaties, the WTO Agreements fall within the category of "important international agreements", subject to ratification by the Standing Committee of the NPC. The WTO Agreements and China's Protocol of Accession are implemented domestically through enabling legislation.<sup>2</sup> Both China's Civil Procedure Law and the relevant judicial interpretations accept the principle that, when an international treaty concluded or acceded to by China contains provisions that differ from the provisions of the Civil Procedure Law, the provisions of the international treaty will apply, except for cases in which it has made reservations.

**(i) Transparency**

9. Since its previous Trade Policy Review in 2008, China has continued to take steps to improve transparency. Nonetheless, some aspects of China's trade policy regime remain complex and opaque. For example, China ranked 38<sup>th</sup> among 48 countries in the 2009 Opacity Index, which measures the degree to which countries lack clear, accurate, easily discernible, and widely accepted practices governing the relationships among governments, businesses, and investors.<sup>3</sup> The complexity and opacity can leave scope for administrative discretion and thus corruption. According to a 2008 Corruption Perceptions Index, which measures perceptions of corruption among public officials and politicians in 180 countries, China ranked 72<sup>nd</sup>, with a score of 3.6 out of 10; in 2005, it ranked 78<sup>th</sup> (out of 159 countries) with a score of 3.2.<sup>4</sup> A 2007 joint Circular by the Supreme People's Court and Supreme People's Procuratorate on the Opinions to Address the Issues in Handling Criminal Cases Involving the Taking of Bribes explicitly classifies as bribery certain acts by government officials, such as securing benefits for someone and, in return, accepting corporate shares from the person without due payment. The Government recently adopted various measures to enhance transparency in the public sector. The General Office of the State Council is in charge of guiding and supervising the disclosure of government information. The National Corruption Prevention Bureau, which reports directly to the State Council, is responsible for assuring the transparency of government information at various levels, with a view to preventing corruption, and studying measures to prevent and reduce corruption; the Bureau monitors the flow of suspicious assets and corruption activities through an information-sharing system among the judiciary, police and banks.

10. Since February 2008, most of administrative regulations promulgated at the legislative level of the State Council have been published on the China Legislative Information Network System, a single platform maintained by the Legislative Office of the State Council, for public comments before promulgation. All foreign trade-related laws, regulations, and rules are published in the *China Foreign Trade and Economic Gazette*, edited and published by MOFCOM. Enquiry points and enquiry websites are established under the MOFCOM and the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ). It was not clear to the Secretariat which regulations are not published or why. Since July 2008, departmental rules by the central government

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<sup>2</sup> See WTO (2006), p. 33 for details.

<sup>3</sup> Milken Institute (2009).

<sup>4</sup> Transparency International online information. Viewed at: <http://www.transparency.org> [29.01.2009].

agencies have also been published through this system.<sup>5</sup> Data indicating how many drafts of administrative regulations and departmental rules have been published for public comments since July 2008 were not made available to the Secretariat.

11. The Provisions on the Disclosure of Government Information, which entered into force on 1 May 2008 specify: which agencies are required to disclose information; the scope of information for disclosure and the way to do it; the processes of disclosure; and the supervision of the system. The Regulations, *inter alia*, require governments at various levels to: establish the processes for information disclosure; formulate guides and catalogues on the information to be disclosed; and improve the publication of information and systems concerning performance review, public comments, annual reporting, and accountability.

12. Since 2008, there has been no change to the Administrative Permission Law, which stipulates that provisions on administrative permission must be promulgated before their entry into force and all administrative permission outcomes, except for those related to state or business secrets or individual privacy, must be published. In addition, the Legislation Law specifies that, when drafting legislation, apart from laws enacted or amended by the NPC, opinions from organizations and the public must be solicited, through, *inter alia*, seminars, appraisal meetings, and hearings. Draft legislation is also made public for comment when necessary, in official gazettes or newspapers.

13. It would appear that the economic evaluation of policies and measures, including tax and non-tax incentives, is not published, indicating that this form of transparency is not a major feature of China's institutional framework, to the detriment of public accountability and thus governance.

## **(ii) Central – Provincial relations in the public sector and local barriers to internal trade**

14. China intends to narrow regional gaps in income and living standards. In this respect, the Central Government implements an overarching strategy to promote "coordinated and balanced development" between regions. Nonetheless, coordination between central and local governments remains weak, and barriers to internal trade may exist as a result of provincial protectionism, even though policy coherence between the central and local governments is partly assured through a system in which top local government officials are appointed by the Central Government and there is a regular exchange of personnel between central and local governments.<sup>6</sup> The authorities state that the Central Government has various programmes to reduce inter-provincial trade barriers and other barriers to internal trade, for example, the introduction of: Certain Regulations on Prohibiting Anti-competitive Practices by Public Enterprises; the Interim Regulations on the Prohibition of Commercial Bribery; and the Interim Regulations on the Prohibition of Collusive Bidding Practices; as well as the Anti-Monopoly Law. The State Council Legislative Affairs Office reviews local regulations to assure policy coherence.

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

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

15. China's main laws covering international trade include the Foreign Trade Law, the Customs Law, and the Regulations on Import and Export Tariffs, which contain the tariff schedules, as well as laws and regulations relating to standards, SPS, anti-dumping measures, countervailing and safeguard measures, and intellectual property rights (Table AII.1). Various trade-related laws and regulations have been adopted or amended during the review period, including: the Provisions on the Disclosure

<sup>5</sup> WTO document S/C/M/92, 12 December 2008.

<sup>6</sup> WTO (2006).

of Government Information (1 May 2008), which stipulate disclosure requirements of government agencies; the Enterprise Income Tax Law (1 January 2008), which unified income tax rates for all companies (domestic or foreign-invested); the Interim Regulations on Value-added Tax (Amended) (1 January 2009), which transformed its VAT from production-based to consumption based tax; the Anti-Monopoly Law (1 August 2008), the first comprehensive competition law in China; the Patent Law (1 October 2009), which, *inter alia*, increased penalties against infringement; the Administrative Regulations on Foreign Investment in Telecommunications Enterprises (Amended) (10 September 2008), which lowered the minimum registered capital requirement for foreign-invested basic telecommunication providers; and the Regulations on the Administration and Supervision of Securities Firms (1 June 2008), which strengthened supervision of securities firms and protection of consumer rights. Other main trade-related laws, regulations and rules (and their amendments) that have entered into force since 2008 include: the Implementing Regulations for the Enterprise Income Tax Law (1 January 2008); the Regulations on the Risk Disposal of Securities Firms (23 April 2008); the Administrative Regulations on Contracting Foreign Engineering Projects (1 September 2008); the Provisions on Thresholds for Prior Notification of Concentration of Undertakings (3 August 2008); the Measures for the Examination and Approval of the Entry-Exit and Foreign-related Joint Research and Utilization of Livestock and Poultry Genetic Resources (1 October 2008); the Regulations on Foreign Exchange Control (Amended) (5 August 2008); the Interim Regulations on Business Tax (Amended) (1 January 2009); and the Interim Regulations on Consumption Tax (Amended) (1 January 2009).

#### (ii) Agencies involved in trade policy implementation

16. An institutional change in the State Council, conducted in 2008, affected some agencies responsible for China's trade policy implementation. The change, which largely involved reassigning of regulatory functions among ministries and agencies (and, consequently, establishment and abolition of ministries and agencies), included: the establishment of the National Bureau of Energy, the Ministry of Industry and Information Technology (MIIT), the Ministry of Transport, and the Ministry of Environmental Protection, and the abolition of the Commission of Science, Technology, and Industry for National Defence (COSTIND), the Ministry of Information Industry (MII), and the Ministry of Construction. Despite the change, the Ministry of Commerce (MOFCOM) still has main responsibility for policy coordination and implementation in respect of all trade-related issues. Other key agencies that have an influence on trade policy include: the National Development and Reform Commission (NDRC), which is in charge of overall national economic and social development policy; and the Ministries of Finance, Agriculture, Transportation, and Land and Resources.<sup>7</sup>

17. Several industry associations also collect and share information, identify and deal with problems related to industries, discuss trade policy issues that affect their industries, and represent their sectors in relation to Government.<sup>8</sup>

#### (4) TRADE POLICY OBJECTIVES

18. China's overall trade policy objective has remained largely unchanged since its previous Trade Policy Review: to accelerate its opening to the outside world (with a view to introducing foreign technology and know-how), develop foreign trade, and promote sound economic development. The authorities stress China's commitment to the DDA and its intention to make every

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<sup>7</sup> See WTO (2008) for other agencies that have influence on trade policies.

<sup>8</sup> These include: the China Coal Industry Association; China Iron and Steel Association; China National Textiles and Clothing Association; China Machine Industry Federation; China Petroleum and Chemical Industry Association; China Light Industry Federation; China Building Material Industry Association; China Nonferrous Metals Society.



effort toward reaching agreement in the negotiations. China provides at least MFN treatment for all WTO Members except El Salvador and some territories of EU Member States (Chapter III(2)(ii)).

19. At the same time, China has continued to intensify its pursuit of bilateral/regional arrangements involving free-trade agreements (section (5)(ii) below). Nonetheless, the share of trade involving China's trading partners with which it has adopted bilateral/regional free trade agreements still account for a minor share of its total trade; imports with these trading partners accounted for 24.7% of China's overall imports in 2009, down from 26.4% in 2006, and exports to these partners accounted for 31.3% of its exports, up slightly from 31.1% in 2006.<sup>9</sup> China considers that regional and bilateral trade arrangements serve as new platforms and complement the multilateral system; and that regional/bilateral trade arrangements interact with the multilateral trading system in a mutually beneficial way. From the relatively low degree of tariff and trade liberalization in some of its RTAs, however (Table III.2), it is not clear how these agreements complement the multilateral trading system. It would appear that all China's bilateral/regional FTA partners recognize China as a market economy.

20. China also participates in the Asia-Pacific Economic Cooperation (APEC) forum, the Asia-Europe Meeting (ASEM), the ASEAN+3, and the East Asia Summit.

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

### **(i) WTO**

#### **(a) Participation in the WTO**

21. China acceded to the WTO on 11 December 2001; it is not a signatory to the plurilateral Agreement on Government Procurement or the Agreement on Trade in Civil Aircraft. China submitted its initial offer to join the GPA, together with its initial Appendix I offer of coverage, on 28 December 2007. It is an observer to the Agreement on Trade in Civil Aircraft. China is also a Member of the Agreement on Information Technology (ITA), which it joined on 23 April 2003; it is not a party to the Pharmaceutical Agreement. China has been participating in the WTO, including in the Doha Development Agenda (DDA), as a strong supporter of the multilateral trading system.

#### **(b) Notifications**

22. China's regular notifications to the WTO are detailed in Table AII.2.

#### **(c) Disputes**

23. Since 2008, China has been involved in 4 disputes as a complainant<sup>10</sup> and 11 as a respondent (Table AII.3).<sup>11</sup> In addition, China participated as a third party in 13 dispute cases during the period under review.<sup>12</sup>

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<sup>9</sup> These partners are: Chile; Hong Kong, China; Macao, China; Pakistan; New Zealand; ASEAN countries; and member countries of APTA (see below).

<sup>10</sup> WT/DS379, WT/DS392, WT/DS397, and WT/DS399.

<sup>11</sup> WT/DS340, WT/DS342, WT/DS339, WT/DS362, WT/DS363, WT/DS387, WT/DS388, WT/DS390, WT/DS394, WT/DS395, and WT/DS398.

<sup>12</sup> WT/DS320, WT/DS321, WT/DS322, WT/DS332, WT/DS336, WT/DS337, WT/DS341, WT/DS343, WT/DS344, WT/DS345, WT/DS350, WT/DS353, and WT/DS366.

(ii) **Regional arrangements**

(a) Asia-Pacific Economic Cooperation (APEC)

24. China has been a member of APEC since 1991. In 2009, 69.0% of China's merchandise imports were from APEC members (down from 73.6% in 2006), and 61.6% of its merchandise exports went to APEC (down from 66.6% in 2006), reflecting faster growth of China's trade with Africa and Middle East. Other APEC members accounted for 64.1% of China's FDI in 2008 (60.6% in 2006).<sup>13</sup> At the Seventeenth APEC Leaders' Meeting, held on 14-15 November 2009 in Singapore, leaders of APEC economies, *inter alia*, reaffirmed that the most effective means of dealing with protectionist pressures and delivering a global stimulus package to sustain and secure recovery is an ambitious and balanced conclusion to the Doha Development Agenda (DDA) in 2010.<sup>14</sup>

(b) ASEM (Asia-Europe Meeting)

25. At the seventh ASEM Summit, chaired by China and held in Beijing in October 2008, leaders, *inter alia*, reaffirmed the importance of an open, fair, rule-based and stable multilateral trading system under the WTO to achieve economic growth and development, and to reduce global disparities and trade imbalances.<sup>15</sup>

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

26. China, Japan, and the Republic of Korea, hold regular meetings with ASEAN under the ASEAN+3 framework of cooperation. The 12<sup>th</sup> ASEAN+3 Summit was held in Cha-am Hua Hin, Thailand, on 24 October 2009 to exchange views on issues including the global financial crisis, and reaffirmed the parties' support to the efforts to resist protectionism<sup>16</sup>; the parties also supported the need to reach an ambitious and balanced conclusion of the Doha Development Agenda.

*China-ASEAN FTA*

27. Under the Framework Agreement on Comprehensive Economic Cooperation between China and ASEAN, which entered into force on 1 July 2003, the two parties agreed to negotiate the establishment of a China-ASEAN Free Trade Area (CAFTA) within ten years, including by: progressively eliminating tariff and non-tariff barriers to substantially all trade in goods; progressively liberalizing trade in services; establishing an open and competitive investment regime to facilitate and promote investment among partners to the CAFTA; simplifying customs procedures; and developing mutual recognition arrangements. The CAFTA, involving the original ASEAN 6 (Brunei, Indonesia, Malaysia, the Philippines, Singapore, and Thailand), is to be established by 2010; flexibility up to 2015 has been provided for Cambodia, Laos, Myanmar, and Viet Nam. ASEAN and China agreed to strengthen economic cooperation by building upon existing activities and developing new programmes in five priority sectors: agriculture; human resources development; information and communication technology; investment; and Mekong River basin development. In accordance

<sup>13</sup> National Bureau of Statistics (2009).

<sup>14</sup> APEC secretariat online information. Viewed at: [http://www.apec.org/apec/leaders\\_\\_declarations/2009.html](http://www.apec.org/apec/leaders__declarations/2009.html) [26.11.2009].

<sup>15</sup> Chair's Statement of the Seventh Asia-Europe Meeting Beijing, 24-25 October 2008. Viewed at: [http://www.aseminfoboard.org/content/documents/ASEM7\\_Chair-Statement.pdf](http://www.aseminfoboard.org/content/documents/ASEM7_Chair-Statement.pdf). [08.10.2009].

<sup>16</sup> Leaders of ASEAN countries agreed to "stand firm against protectionism and to refrain from introducing and raising new barriers" (ASEAN online information, "Press Statement on the Global Economic and Financial Crisis, Cha-am, Thailand, 1 March 2009". Viewed at: <http://www.aseansec.org/22387.htm> [25.02.2010]).

with the CAFTA Agreement on Trade in Goods, two rounds of tariff reduction took place on 1 January 2009 and 1 January 2010. In 2009, the share of duty-free tariff lines applicable to China's imports from individual ASEAN countries ranged from 14.4% to 60.5%. An Agreement on Trade in Goods and an Agreement on the Dispute Settlement Mechanism of the Framework Agreement on Comprehensive Economic Cooperation between ASEAN and China entered into force on 1 January 2005. On 1 July 2007, the Agreement on Trade in Services of the China-ASEAN Free Trade Area entered into force.<sup>17</sup>

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

28. China is party to the Asia-Pacific Trade Agreement, a preferential trading arrangement between developing countries in the Asia-Pacific region; other members are Bangladesh, India, the Republic of Korea, the Lao People's Democratic Republic, and Sri Lanka. Under the agreement, in 2009, 1,662 tariff lines carried rates below the MFN rates; as a result, the overall average tariff applied to parties to the APTA was 8.9%, compared with an MFN rate of 9.5% (Chapter III(2)(iii)). In February 2009, the 31<sup>st</sup> meeting of the APTA Standing Committee was held in Bangkok; the authorities state that consensus was reached on such issues as trade in services, investment, framework agreements on trade facilitation, and rules of origin. On 15 December 2009, the third session of the Ministerial Council of the Asia-Pacific Trade Agreement was held in Seoul, and the Framework Agreements on trade facilitation and promotion, protection and liberalization of investment were signed. In addition, the framework agreement on promotion and liberalization of trade in services was finalized (to be signed). The Ministers declared that the fourth round of negotiations under the APTA had reached its final stage.

(iii) **Bilateral arrangements**

29. China has concluded several bilateral FTAs and has been negotiating (or seeking negotiations on) free-trade agreements with some other trading partners. China has established an official FTA Network website, which provides information regarding all FTAs it has signed and recent updates.<sup>18</sup> The share of China's trade with its current bilateral FTA partners (i.e. the Hong Kong and Macao SARs, Chile, New Zealand, Pakistan, and Singapore) accounts for small and declining shares of its total trade; exports to these partners decreased from 19.6% in 2006 to 17.5% in 2009, and imports from them decreased from 4.6% in 2006 to 4.3% in 2009.

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

30. Under the Closer Economic Partnership Arrangements (CEPAs) with the Special Administrative Regions (SARs) of Hong Kong and Macao, the simple average applied rates for imports originating in Hong Kong, China and Macao, China were 7.2% and 8.3%, respectively, compared with the simple average MFN applied rate of 9.5% in 2009. Both CEPAs have provisions regarding non-tariff measures, non-application of tariff-rate quotas, anti-dumping and countervailing measures, safeguard measures, trade in services, transparency, standards and conformity assessments, and information exchange. Between 2007 and 2009, the fourth, fifth and sixth Supplemental Agreements of the Closer Economic Partnership Arrangements were signed separately with the Hong Kong and Macao SARs. The authorities indicate that, with the sixth supplementary agreement of the CEPA, mainland China's services areas open to the Hong Kong and Macao SARs totalled 42 and 41, and preferential trade measures amounted to 250 and 237, respectively. The mainland also strengthened its cooperation with the Hong Kong and Macao SARs in, *inter alia*: promotion of trade and investment, facilitation of customs clearance, electronic commerce, transparency in laws and

<sup>17</sup> This agreement was notified to the WTO on 26 June 2008. WTO document S/C/N/463, 2 July 2008.

<sup>18</sup> China FTA Network online information. Viewed at: <http://fta.mofcom.gov.cn>. [14.02.2010].

regulations, commodity inspection and quarantine, food safety, quality standards, cooperation in SMEs, industrial cooperation, cooperation on the protection of IPRs, and brand cooperation. The shares of China's exports to the Hong Kong and Macao SARs in its total exports were 13.8% and 0.2%, respectively, in 2009 (16.0% and 0.2%, in 2006); the shares of its imports from the Hong Kong and Macao SARs were 0.9% and 0.0%, respectively, in 2009 (1.4% and 0.0%, in 2006).

(b) China–Chile FTA

31. The China–Chile FTA entered into force on 1 October 2006.<sup>19</sup> China's overall average tariff on imports from Chile was 2.3% in 2009, the lowest overall average among China's bilateral FTA partners. In 2009, the share of duty-free tariff lines applicable to China's imports from Chile was 62.6%. The authorities indicated that under the FTA, 74% of Chile's tariffs (in terms of tariff lines) were eliminated immediately, and most other tariffs are to be eliminated within five or ten years, with 97% of both countries' tariffs eliminated by 1 January 2015. The two countries eliminated and reduced tariffs on 1 October 2006, 1 January 2007, 1 January 2008, and 1 January 2009 in accordance with the FTA. Negotiations on trade in services and investment were launched in September 2006.<sup>20</sup> In April 2008, the two parties signed the Supplement Agreement on Trade in Services of the China–Chile FTA. By the end of 2009, five rounds of negotiations for the Agreement on Investment of the China–Chile FTA had been concluded. In 2009, the share of China's exports to Chile in its total exports was 0.4%, up from 0.3% in 2006; the share of imports from Chile in China's total imports in 2009 was 1.3%, up from 0.7% in 2006.

(c) China–Pakistan FTA

32. The China–Pakistan Free Trade Agreement entered into force on 1 July 2007. The FTA was reviewed by the WTO Committee on Regional Trade Agreements on 20 April 2009, with several Members expressing disappointment on the relatively low tariff line and bilateral trade coverage in the Agreement.<sup>21</sup> The Agreement covers trade in goods and investment. It was notified to the WTO in January 2008.<sup>22</sup> Under the Agreement, China committed to liberalize 36.4% of its tariff by the end of implementation in 2012.<sup>23</sup> In 2009, the share of duty-free tariff lines applicable to China's imports from Pakistan was 19.2%. China's overall average tariff on imports from Pakistan was 6.9% in 2009 (overall MFN average was 9.5%) (Chapter III(2)(iii)). Furthermore, the Agreement on Trade in Services of the China–Pakistan FTA was signed on 21 February 2009 and entered into force on 10 October 2009, but has not been notified to the WTO. Under the Agreement, China has committed to further open its market to Pakistan in 28 subsectors, including healthcare, tourism, sports, transportation. In 2009, the share of China's exports to Pakistan in its total exports was 0.5%, up from 0.4% in 2006; the share of imports from Pakistan in China's total imports was 0.1%, unchanged since 2006.

(d) China–Singapore FTA

33. The Sino-Singaporean Free Trade Agreement on goods and services was signed on 23 October 2008; it entered into force on 1 January 2009. The agreement was notified to the WTO

<sup>19</sup> WTO (2008).

<sup>20</sup> MOFCOM online information. Viewed at <http://english.mofcom.gov.cn/aarticle/newsrelease/significantnews/200904/20090406167872.html> [12.05.2009].

<sup>21</sup> WTO document WT/REG237/M/1, 4 May 2009.

<sup>22</sup> WTO document WT/REG237/N/1, 21 January 2008.

<sup>23</sup> The overall average tariff is expected to fall to 6.1% by 2012. WTO document WT/REG237/1, 1 December 2008, Factual Presentation: Free Trade Agreement between Pakistan and China.

on 2 March 2009.<sup>24</sup> It is scheduled to be considered by the CRTA in June 2010. While Singapore eliminated all tariffs on imports from China on January 2009, the authorities maintain that China undertook reduce tariffs to zero on 97.1% (in terms of tariff lines) of all imports from Singapore by 1 January 2010. In 2009, the share of duty-free tariff lines applicable to China's imports from Singapore was 19.2% under the FTA; by including duty-free tariff lines provided in the context of preferential tariffs under the China – ASEAN FTA, the share becomes 68.5%. The two countries have also made commitments in health, education, and accounting; improvements in commitments are mainly represented by either a relaxation of requirements for the form of establishment under mode 3 or new commitments in subsectors such as computer and related services, real estate, environment, and air and road transport. In addition, China has added certain subsectors such as hospital services, and sports promotion services and facility operation services, in which it has no GATS commitment. The two countries have also made commitments on the movement of natural persons (to establish transparent criteria and streamlined procedures for temporary entry), customs procedures (to, *inter alia*, simplify and harmonize customs procedures), SPS (*inter alia*, notification and information exchange between the parties), and TBT (to, *inter alia*, enhance cooperation between the regulatory authorities and between standards and conformance bodies). In 2009, the share of China's exports to Singapore in its total exports was 2.5%, up from 2.4% in 2006; the share of imports from Singapore in China's total imports was 1.8%, down from 2.2% in 2006.

(e) China–New Zealand FTA

34. The FTA between China and New Zealand, signed on 24 July 2008, entered into force on 1 October 2008.<sup>25</sup> On trade in goods, China is to eliminate the tariffs on 97.2% (in terms of tariff lines) of imports from New Zealand by 1 January 2019. In 2009, the share of duty-free tariff lines applicable to China's imports from New Zealand was 24.7%. Preferential TRQs started to be applied on 1 January 2009, to some wool and wool top (9 tariff lines at the HS 8-digit level) originating from New Zealand under the FTA.<sup>26</sup> The in-quota rates for these imports were zero. As of 1 January 2009, China reserved the right to apply special safeguard measures to 11 agricultural products (at the HS 8-digit level) imported from New Zealand.<sup>27</sup> These agricultural products are milk and cream, butter and other fats and oil derived from milk, and cheese; apart from cheese, by the end of 2009, China took special safeguard measures against the other products originating from New Zealand.<sup>28</sup> On services, China made commitments in 15 subsectors of 4 main services sectors (i.e. business, environment, sports and entertainment, and transportation). Like in the GATS, China took no commitments, *inter alia*, in rental/leasing services without operators, postal services, health and related services and tourist guide services. The two countries made commitments on the movement of natural persons. The FTA contains provisions for the promotion and protection of investment as well as cooperation in customs, SPS, and IPR. In 2009, the share of China's exports to New Zealand in its total exports was 0.2%, unchanged since 2006; the share of imports from New Zealand in China's total imports in 2009 was also 0.2%, unchanged since 2006.

<sup>24</sup> WTO document WT/REG262/N/1, 4 March 2009.

<sup>25</sup> It was notified to the WTO on 23 April 2009 (WTO document WT/REG266/N/1, 23 April 2009). It is scheduled to be considered in the CRTA in June 2010.

<sup>26</sup> Customs announcement No. 94 in 2008. Viewed at: <http://www.customs.gov.cn/publish/portal0/tab3889/module1188/info150129.htm> (in Chinese). [05/01/2009].

<sup>27</sup> Customs Announcement No. 91 in 2008. Viewed at: <http://www.customs.gov.cn/publish/portal0/tab399/info150742.htm> (in Chinese) [05/01/2009].

<sup>28</sup> Customs online information. Viewed at: <http://www.customs.gov.cn/publish/portal0/tab33196/> [20/01/10].

(f) China–Peru FTA

35. The China-Peru Free Trade Agreement was signed on 28 April 2009; the Chinese authorities expect the agreement to enter into force in the first half of 2010; it has not been notified to the WTO. The Chinese authorities maintain that the FTA is to eliminate tariffs on 90% (in terms of tariff lines) of each other's imports. China agreed to further open up sectors such as mining, management consulting, R&D, translation and interpretation, sports, and tourism.

(g) Other agreements

36. China and Australia signed a Trade and Economic Framework Agreement on 24 October 2003. An early announcement of negotiations, made to the WTO, indicate that they started on 23 May 2005. A 13<sup>th</sup> round of talks was concluded in December 2008.

37. In June 2004, China and the Southern African Customs Union (SACU) issued a joint declaration, in which SACU granted China market economy status. At the same time, FTA negotiations were launched. No negotiations have taken place.

38. In July 2004, China and the Gulf Cooperation Council (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the UAE) announced that they had signed a Framework Agreement on Economic, Trade, Investment and Technology Cooperation, and agreed to launch FTA negotiations. Five rounds of negotiations had been held by December 2009.

39. On 4 December 2006, China and Iceland agreed to start negotiating an FTA; a fourth round of negotiations was held in April 2008.

40. China and Norway started FTA negotiations in September 2008<sup>29</sup>; six rounds of negotiations had been held by December 2009.<sup>30</sup>

41. Negotiations for a China–Costa Rica FTA began in January 2009; by the end of 2009, five rounds of negotiations had been held.

42. In addition to recent changes in the cross-straits relationship in transport and postal services (Chapter IV), China and Chinese Taipei started negotiating a "cross-straits economic cooperation framework agreement (ECFA)". The first round of negotiations took place on 26 January 2010. The scope of the possible agreement remains to be announced.<sup>31</sup>

(h) Other potential bilateral agreements

43. Feasibility studies on a China–India FTA, China–Korea FTA, and China–Switzerland FTA started in April 2005, November 2006, and November 2009, respectively.

**(iv) Unilateral preferences**

44. As of 1 January 2009, unilateral preferential tariffs on certain products were offered to 41 least developed countries (Chapter III(2)(iii)). The authorities intend to increase the coverage of

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<sup>29</sup> An early announcement of these negotiations was made to the WTO.

<sup>30</sup> MOFCOM online information. Viewed at: <http://english.mofcom.gov.cn/aarticle/newsrelease/significantnews/200903/20090306104277.html> [12.05.2009].

<sup>31</sup> MOFCOM online information. Viewed at: <http://tradeinservices.mofcom.gov.cn/en/a/2010-01-28/79549.shtml>. [15.02.2010].

this scheme to 95% of imports from LDCs (in terms of national tariff lines) at an unspecified time in the future. Chinese imports from the 41 LDCs increased from US\$11.7 billion in 2004 to US\$27.7 billion in 2009; imports from Angola accounted for about 53% of the total imports in 2009.<sup>32</sup>

#### (6) FOREIGN INVESTMENT REGIME

45. In 2008, China was the third largest recipient of FDI in the world, after the United States and France.<sup>33</sup> Foreign investment has been encouraged mainly in manufacturing with particular emphasis on high-value-added production; recently, FDI in services has been more encouraged by, *inter alia*, the relaxation, if not liberalization, of FDI restrictions, in certain sectors, such as telecommunications and tourism (Chapter IV(5)). During the period under review, China adopted a few measures to further liberalize or facilitate FDI in China, including an amendment to the Catalogue of Priority Industries for Foreign Investment in the Central-Western Region, which further opened up the coverage and scope of sectors for foreign investment. In 2005, the Central Government began delegating to local governments licensing authority for the establishment and modification of operations of "encouraged" FIEs and certain selected sectors (e.g. distribution, whose licensing process was fully decentralized on 12 September 2008), as well as certain types of FIEs, such as foreign-invested joint-stock companies. The authorities expect this to facilitate FDI approval. There was also FDI liberalization in the context of the bilateral agreements (CEPAs) between Hong Kong, China and Macao, China (section (5)(ii)). Furthermore, since 2007, China has promoted the online licensing system for FDI.

46. China also encourages outward FDI in areas such as research and development, production and marketing, and energy. The authorities maintain that outward FDI is encouraged in order to expand the width and depth of opening up to the outside world, promoting international economic and trade cooperation, and achieving common development, on the basic principle of "mutual benefit, all-win, and common development". Since 1 May 2009, the Ministry of Commerce has officially delegated the authority of examination and approval of overseas FDI to the local commerce authorities of various provinces, autonomous regions, and municipalities directly under the Central Government. In accordance with the Circular on the Adjustment of Foreign Exchange Management Policy concerning Overseas Investment, issued by the State Administration of Foreign Exchange (SAFE), there are no restrictions on the purchase of foreign currency for the purpose of outward FDI. China's sovereign wealth fund, China Investment Corporation, aims to invest a part of the country's large foreign reserves; the fund's operational assets amount to about US\$200 billion.<sup>34</sup>

47. Main laws and regulations specifically related to FDI remained largely unchanged during the review period. Measures for Administration of Establishment of Partnership Enterprise by Foreign Enterprises or Individuals within China were published on 25 November 2009, and are to enter into force on 1 March 2010.

48. Since China's previous Review, there has been no change in the Catalogue for the Guidance of Foreign Investment Industries<sup>35</sup>, which lists industries that are encouraged, restricted, and prohibited; projects that do not fall into these three groups are "permitted". The current Catalogue of Advantaged Industries for Foreign Investment in Central-Western China entered into force in

<sup>32</sup> UN Comtrade database and China's Customs Statistics.

<sup>33</sup> In 2008, inflows of FDI into China were US\$108.3 billion; inflows into the United States and France were US\$316.1 billion and US\$117.5 billion, respectively (UNCTAD, 2009).

<sup>34</sup> China Investment Corporation online information. Viewed at: [http://www.china-inv.cn/cicen/about\\_cic/aboutcic\\_overview.html](http://www.china-inv.cn/cicen/about_cic/aboutcic_overview.html). [29.09.2009].

<sup>35</sup> The latest revision of the Catalogue entered into force on 1 December 2007.

January 2009 to further promote FDI in the central and western regions of China. The authorities indicate that the new catalogue includes about 410 subsectors and projects; the Government encourages foreign investment in these subsectors and projects, which are eligible for certain preferential measures.

49. Since its previous Review in 2008, examination and approval procedures for FDI have remained largely the same, except for some delegation of authority to local governments. The Catalogue of Investment Projects Approved by the Government, which is the annex to the Decision of the State Council on the Reform of Investment System, clarifies the scope and the level of authorities verifying foreign investment project. For some industries, the NDRC must verify projects above certain thresholds (US\$100 million for "permitted" and "encouraged" industries, and US\$50 million for restricted industries); those valued at or below the threshold must be verified by the local DRCs.

50. Before 2009, FIEs were subject to the urban real-estate tax, while domestic enterprises had to pay the house property tax. On 1 January 2009, the State Council abolished the urban real-estate tax, and FIEs and domestic enterprises are subject to the house property tax. As a result, domestic enterprises and FIEs are now subject to equal tax treatment except that FIEs do not need to pay city maintenance tax and construction tax, which domestic companies do pay. Since 2007, land allocation has been through tendering and bidding procedures for domestic firms and FIEs. Since 2008, a statutory rate of 25%, set in accordance with the Enterprise Income Tax Law, has been applicable to all enterprises, except for some "grandfathering" of incentives during a transitional period of five years<sup>36</sup> (Chapter III(4)(i)).

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

#### *Bilateral investment and tax agreements*

52. China had signed 113 bilateral investment protection agreements by the end of September 2009<sup>37</sup>; and 94 agreements or arrangements on avoidance of double taxation. Some of the agreements on avoidance of double taxation incorporate "tax sparing" provisions, which stipulate that in respect of certain "taxable income", tax is to be levied only by one party to the agreement; they have no MFN provisions. In addition, China's CEPAs with the SARs of Hong Kong and Macao provide certain privileges to investors from these SARs (section (iii) above).<sup>38</sup>

### **(7) FOREIGN ASSISTANCE**

#### **(i) Assistance to China**

53. MOFCOM estimates that China received US\$6.7 billion in bilateral and multilateral development assistance between January 1979 and May 2009. China believes that this economic and development assistance has greatly contributed to its reform process and its economic and social development. According to estimates by the OECD, commitments by developed nations for official development assistance to China amounted to US\$1.4 billion in 2007; approximately US\$335 million

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<sup>36</sup> See WTO (2008) for details.

<sup>37</sup> The bilateral investment protection agreements provide protection against expropriation without adequate compensation and include provisions on dispute settlement.

<sup>38</sup> Other international agreements signed by China include: the United Nations Convention on Contracts for the International Sale of Goods (Vienna Convention), in 1991; and the Hague Convention on the Service of Documents Abroad, in 1991.



was in categories within the scope of the definition of aid for trade given by the WTO Aid-for-Trade Task Force.<sup>39</sup> Among the international financial institutions, World Bank lending totalled approximately US\$2.36 billion in IBRD loans in its financial year 2009 for 13 projects, focusing on agriculture, transportation, city construction and environment, energy, and reconstruction after the Wen Chuan earthquake. In 2008, the operations of the Asian Development Bank (ADB) in China included sovereign loans worth US\$1.5 billion and US\$224 million in private-sector loans. The ADB also provided China with US\$19.5 million in technical assistance. Multilateral assistance through the United Nations is based on a Development Assistance Framework for 2006-2010.

**(ii) China's assistance to foreign countries**

54. The MOFCOM has a mandate to formulate China's foreign assistance policies, and plan, implement, monitor, and evaluate China's foreign assistance operations.<sup>40</sup> China offers assistance mainly through bilateral channels.<sup>41</sup> Its foreign assistance projects include social welfare projects, infrastructure and public facility projects, human resources development cooperation, dispatching medical teams, provision of general goods and materials, emergency humanitarian and cash aid, and youth volunteers.<sup>42</sup> Information provided by the authorities indicates that China had provided more than Y 210 billion in the form of grants and interest-free loans by the end of 2008. China has provided assistance to more than 120 developing countries. The authorities indicate that a significant proportion of China's aid activities may fall within the scope of the definition of aid for trade given by the WTO Aid-for-Trade Task Force.

55. The annual disbursement of grants and interest-free loans offered by the Government, in the context of its south-south cooperation, tripled between 2000 and 2008, to approximately US\$1.9 billion. During the same period, official concessional loans increased tenfold, to approximately US\$1.5 billion.<sup>43</sup> Between 2006 and 2009, China doubled its grants and interest-free loans to African counties and offered US\$5 billion in preferential loans. In 2009, China pledged to offer US\$10 billion in preferential loans to African countries mainly for infrastructure construction.

56. China also actively supports infrastructure construction in Asia. Between 2006 and 2008, China provided US\$8.3 billion in preferential loans to ASEAN countries. In 2009, China pledged to provide ASEAN with credit (including commercial loans and preferential loans) of US\$15 billion in the following 3-5 years, and also pledged to establish the China-ASEAN Investment Cooperation Fund, amounting to US\$10 billion, for regional cooperation in infrastructure, energy and resources, and communications. Regional cooperation fora structure China's aid relations with other regions.<sup>44</sup>

<sup>39</sup> See WTO document WT/AFT/1, 27 July 2006, for these definitions.

<sup>40</sup> MOFCOM's Department of Aid to Foreign Countries holds regular coordination meetings and works closely with the Ministry of Foreign Affairs, Ministry of Finance, the Export-Import Bank of China, and some 20 other ministries and organizations.

<sup>41</sup> China is a signatory to the Paris Declaration on Aid Effectiveness, and the Accra Agenda for Action.

<sup>42</sup> At the Second Global Review of Aid for Trade, China provided various examples of its trade-related infrastructure projects (WTO document WT/COMTD/AFT/W/15, 28 October 2009). Some 35 African countries have received Chinese infrastructure finance. The World Bank has published a review of China's infrastructure activities in Africa (IBRD/World Bank, 2008).

<sup>43</sup> China does not follow the OECD definition of Official Development Assistance.

<sup>44</sup> These fora include China-Pacific Island Countries Economic Development and Cooperation Forum and China-Arab Co-operation Forum (see MOFCOM online information. Viewed at: <http://cpicforum.english.mofcom.gov.cn>, and Ministry of Foreign Affairs online information. Viewed at: <http://www.mfa.gov.cn/eng/wjdt/wshd/t569478.htm>). In November 2008, China published a policy paper on Latin America and the Caribbean region (see Ministry of Foreign Affairs online information. Viewed at: <http://www.fmprc.gov.cn/eng/zxxx/t521025.htm>).

### III. TRADE POLICIES AND PRACTICES BY MEASURE

#### (1) INTRODUCTION

1. Despite the sharp decline in external demand due to the global crisis, China has continued its long-term strategy of opening its economy. The trend in tariffs remains downward and the Government has been continuing with its Customs transit reform and introduced a direct release system into its entry-exit inspection procedures to facilitate trade. In addition, China has undertaken major reforms of its tax system, and implemented a comprehensive competition law to foster competition. Nonetheless, the Government still uses various means (including tariff and non-tariff barriers, export restraints, and state-ownership) to, *inter alia*, provide "guidance" on the allocation of resources.

2. The tariff remains one of China's main border measures with an average applied MFN tariff rate of 9.5% in 2009 (down from 9.7% in 2007). Applied rates are close to bound rates and bound rates are low, thereby imparting the tariff with a high degree of predictability. Nonetheless, China's tariff could be complex, as its applied MFN tariff, for example, contains 60 different *ad valorem* rates. Tariff exemptions are provided for, *inter alia*, goods imported in bond under processing trade (which accounted for about 40% of China's international trade), if they are exported within a certain period.

3. Apart from import prohibitions (to protect public interest, environment, or in accordance with international commitments), China has continued to use non-tariff border measures (such as import and export licensing) as instruments of its trade and industrial policies. State trading is still used to manage trade in certain imports and exports of, *inter alia*, some agricultural products and crude and processed oil.

4. The administrative and legislative framework on standards, voluntary or mandatory, remains the same. The General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) has reformed its entry-exit inspection procedures and introduced a direct release system to facilitate trade.

5. On government procurement, China applied to join the WTO GPA in December 2007, and is to make a revised offer in 2010. China's Government Procurement Law requires the Government to procure domestically produced goods and services. In 2009, in view of the stimulus package provided, the Government reiterated the importance of abiding by the Law to attain the State goals for economic and social development.

6. China's export regime is still characterized by various restrictions, notably prohibitions, licensing, quotas, taxes, and less than full rebates of VAT on exports. Export taxes and VAT rebates on exports are adjusted from time to time, according to the authorities, to reflect the changing international environment, or to save energy, protect the environment, and conserve natural resources. Nonetheless, the effectiveness of some of these export restraints in achieving their objectives can be questioned; indeed, the Government is considering alternative measures, such as levying an environmental tax, for example, on some natural resource products.

7. China's tax revenue has been increasing fast, and the Government has been carrying out various tax reforms, notably unifying taxes on FIEs and domestic enterprises, and transforming the VAT from a production-based to a consumption-based tax, with a view to simplifying China's tax structure and rendering it more neutral as far as investment is concerned.

8. The Government continues to use industrial policies to "guide" the development of certain sectors, such as the ten (largely manufacturing) sectors identified in early 2009 to counter the effect of

the global crisis. The reform of the public sector, including SOEs, continues, and SOEs still play a key role in the economy. SOEs have been benefiting disproportionately from the Government's economic stimulus measures to boost the economy, although the authorities maintain that this is not the intention of the Government. SOEs also have much better access to capital than private enterprises. Corporate governance, including in SOEs, has improved by the listing of these enterprises on stock exchanges, both in China and abroad. In addition, the conversion of non-tradeable shares of listed SOEs to tradeable shares contributed to the development of China's capital market.

9. With the entry into force of its Anti-Monopoly Law on 1 August 2008, China has taken a major step to promote competition. As the Law is enforced by different ministries, various implementing regulations on different aspects of competition have been issued and implemented by them. However, certain aspects of the Law (e.g. "national security review") still need to be clarified.

10. China has identified the promotion of innovation as a national development strategy. In June 2008, the State Council issued the Outline of the National Intellectual Property Strategy ("the Outline"), with a view to enhancing IPR protection and promoting the creation and utilization of intellectual property, and thus encouraging innovation activities. China has continued to improve its legislative framework and intensify the enforcement of IPR protection; for example, the revised Patent Law raised fines and legal compensation for cases of misleading assertion of patent rights. Based on the number of international patent applications filed with WIPO under the Patent Cooperation Treaty (PCT) system, China ranked fifth in the world in 2009 as regards technological innovation. The increase in innovation will undoubtedly contribute to increased awareness of the need to protect IPRs.

## **(2) MEASURES DIRECTLY AFFECTING IMPORTS**

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

#### **(a) Customs procedures and preshipment inspection**

11. China has continued to reform its Customs transit system to simplify Customs declaration procedures. Before the reform began in 2005, importers in inland areas of China had to first go through Customs transit procedures at the entry port, before declaring the goods at the Customs in the destination port. Following the reform, importers declare only at the place where they are registered. The reform has been expanded nationwide in mainland China.

12. Apart from the continuing Customs transit reform, there has been no major change in the Customs procedures or preshipment requirements since China's previous Review. Importers (and exporters) must register with MOFCOM or its authorized bodies before filing Customs declarations. Import (and export) declarations must be made in paper and electronic form, and can be made either in person or by an authorized enterprise. Declarations must be made to Customs at the port of entry within 14 days of the goods' arrival. China's preshipment inspection (PSI) requirements, introduced in December 2005, remain unchanged. PSI is required for imports of: certain commodities related to national security, with high value or complicated technology; equipment exceeding certain height, length or volume; solid waste used as raw materials; and certain used electronic products that are deemed to affect public health and environment.<sup>1</sup> China has designated some foreign institutions to conduct PSI and to issue certificates. It is not clear to the Secretariat whether China sends people or institutions abroad to conduct PSI inspections.

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<sup>1</sup> China introduced PSI requirements with a view to, *inter alia*, protecting public health, improving the phytosanitary situation, protecting the environment, and preventing counterfeit goods from entering China.

(b) Customs valuation

13. Customs value is determined on the basis of transaction value, which includes the costs of transport and insurance and other related charges.<sup>2</sup> Under the Rules Regarding Determination on Customs Value of Imported and Exported Goods, where it is impossible to determine the transaction value, the customs value is based on (in sequential order): the transaction value of identical goods; the transaction value of similar goods; the deductive value; the computed value; and the value determined on a "reasonable" basis.

(c) Rules of origin

14. During the review period, there has been no change in China's non-preferential rules of origin. For goods produced or manufactured wholly within one country or region, origin is defined as that country or region; for goods produced in two or more countries or regions, the place of origin is the country or region where substantial transformation has been made and finalized. Substantial transformation is defined either as a change in the tariff heading of the good according to China's tariff classification, or where the value added is no less than 30% of the total value of the product.<sup>3</sup>

15. Preferential rules of origin are applied in accordance with the various regional and bilateral trade agreements China has concluded (Table AIII.1), and to certain imports from LDCs. Since its previous Review, China has signed free-trade agreements with Singapore (on 23 October 2008) and Peru (on 28 April 2009), although the China-Peru FTA has not yet entered into force. China also made early announcement to the WTO of RTAs with Australia and Norway, which are being negotiated. Preferential rules of origin tend to vary from agreement to agreement, and sometimes across product groups, which could add to the complexity of China's import regime.

(ii) Tariffs

(a) Overview

16. The tariff is one of China's main border measures pertaining to imports. In 2009, tariff revenue accounted for 2.5% of total tax revenue, down from 3.3% in 2008.

17. China's import tariff rates comprise MFN tariff rates, non-MFN tariff rates ("agreement" tariff rates, "special preferential" tariff rates, "general" tariff rates), and tariff-quota rates. For all these rates (apart from the "general" tariff rates), the Customs Tariff Commission of the State Council may set "interim" tariff rates<sup>4</sup>, which are implemented on specific products for a certain period of time.<sup>5</sup> China provides at least MFN treatment for all WTO Members except El Salvador and some territories

<sup>2</sup> Rules Regarding Determination on Customs Value of Imported and Exported Goods. See WTO document G/VAL/N/1/CHN/5, 11 April 2008.

<sup>3</sup> Regulations on the Specification of Substantial Change in the Non-Preferential Rules of Origin. Viewed at: [http://www.chinacourt.org/flwk/show1.php?file\\_id=98464](http://www.chinacourt.org/flwk/show1.php?file_id=98464) (in Chinese) [19 Dec 2008]. WTO document G/RO/53 (1 August 2002).

<sup>4</sup> China's tariff is set by the Customs Tariff Commission of the State Council, an inter-ministerial body composed of, *inter alia*, the Ministry of Finance, Customs, MOFCOM, NDRC, and the State Council General Office. The Tariff Commission may set interim rates whenever it considers such rates necessary.

<sup>5</sup> Where there are interim tariff rates on imported goods to which the applied MFN tariff rates are applicable, and rates are no higher than applied MFN tariff rates, the interim tariff rates apply; where there are interim tariff rates on imported goods to which agreement tariff rates or special preferential tariff rates are applicable, the lower tariff rates apply; where there are interim tariff rates on imported goods to which tariff-quota rates are applicable, the interim tariff rates apply.

of EU Member States.<sup>6</sup> Data provided by the authorities indicate that in 2007 and 2008, virtually all of China's imports were subject to MFN or more favourable rates.<sup>7</sup>

(b) MFN tariff rates

*Bound MFN tariff rates*

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

**Table III.1**  
China's tariff structure, 2005, 2007, and 2009  
(Per cent)

	MFN applied			Final bound <sup>a</sup>
	2005	2007	2009	
1. Bound tariff lines (% of all tariff lines)	100.0	100.0	100.0	100.0
2. Simple average rate <sup>b</sup>	9.7	9.7	9.5	9.9
Agricultural products (HS 01-24)	14.6	14.5	14.5	14.6
Industrial products (HS 25-97)	8.9	8.8 (8.9) <sup>c</sup>	8.6	9.1
WTO agricultural products	15.3	15.3 (15.2) <sup>c</sup>	15.2	15.3
WTO non-agricultural products	8.8	8.8	8.6	9.0
Textiles and clothing	11.5	11.5	11.5	11.5
ISIC 1 - Agriculture, hunting and fishing	11.2	11.2	11.1	11.3
ISIC 2 - Mining	2.3	2.1	1.9	2.8
ISIC 3 - Manufacturing	9.8	9.7 (9.8) <sup>c</sup>	9.5	9.9
Manufacturing excluding food processing	9.0	9.0	8.8	9.2
First stage of processing	9.6	9.6	9.5	9.9
Semi-processed products	7.3	7.2	7.1	7.3
Fully processed products	11.1	11.1	10.8 (10.9) <sup>c</sup>	11.3
3. Domestic tariff "peaks" (% of all tariff lines) <sup>d</sup>	2.6	2.3 (2.4) <sup>c</sup>	2.0 (2.1) <sup>c</sup>	2.4
4. International tariff "peaks" (% of all tariff lines) <sup>e</sup>	15.6	15.4 (15.6) <sup>c</sup>	14.6 (14.9) <sup>c</sup>	15.9
5. Overall standard deviation of tariff rates	7.6	7.5	7.4 (7.5) <sup>c</sup>	7.6
6. Coefficient of variation of tariff rates	0.8	0.8	0.8	0.8
7. Tariff quotas (% of all tariff lines)	0.7	0.6	0.6	0.6
8. Duty-free tariff lines (% of all tariff lines)	8.6	8.7	9.4	7.6

Table III.1 (cont'd)

<sup>6</sup> El Salvador notified that it does not apply the multilateral trade agreements between El Salvador and the People's Republic of China, in accordance with the Article XIII of the Marrakesh Agreement (WTO document WT/L/429, 7 November 2001).

<sup>7</sup> Exceptions are "general" rates (section (c) below).

	MFN applied			Final bound <sup>a</sup>
	2005	2007	2009	
9. Non- <i>ad valorem</i> tariffs (% of all tariff lines)	0.7	0.7	0.7	0.0
10. Nuisance applied rates (% of all tariff lines) <sup>f</sup>	2.6	2.7	2.7	2.6

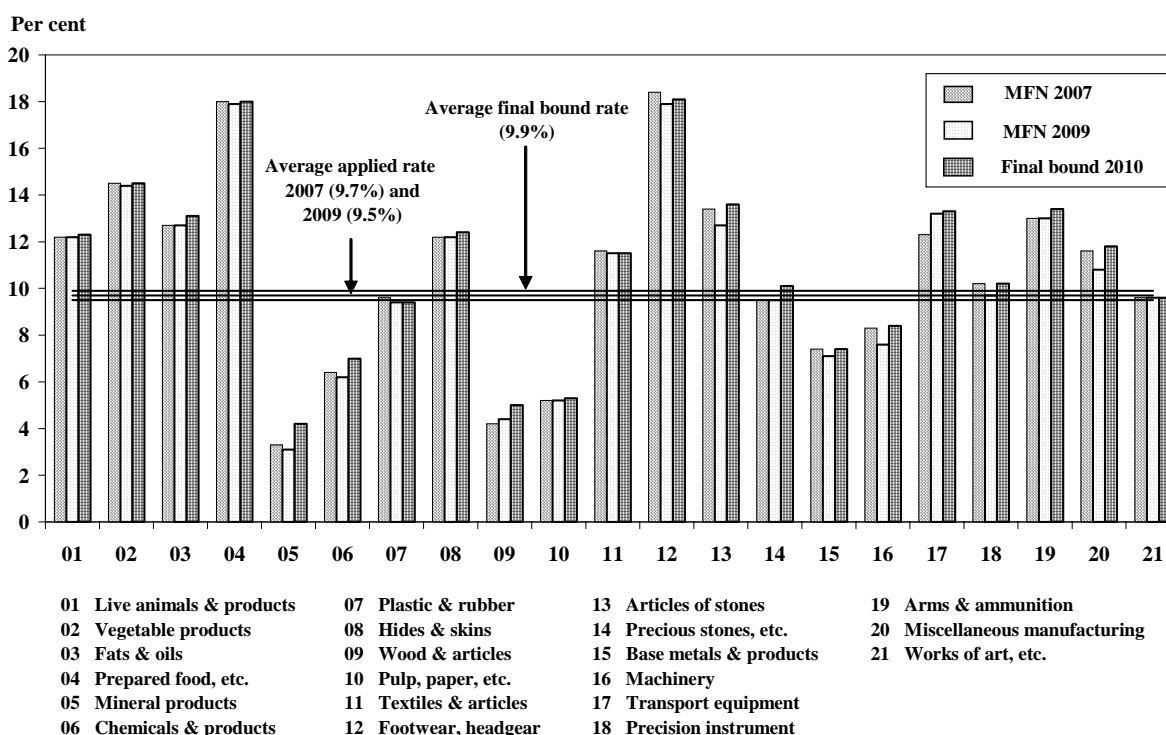
- a Based on 2009 tariff schedule. Implementation of final bound rates to be reached in 2010. In 2009, all but five tariff lines reached the U.R. implementation. The five lines are: 0810.1000 (current bound rate 15.5%, final bound rate 14%), 0812.9000 (current bound rate 25.9%, final bound rate 25%), 2206.0010 (42.3%, 40%), 2206.0090 (42.3%, 40%), and 5512.1100 (16.9%, 15%).
- b The simple averages not including interim rates are, respectively, 9.9%, 9.8% and 9.8% for 2005, 2007 and 2009.
- c Data in brackets include AVEs for specific rates provided by the authorities, as available.
- d Domestic tariff peaks are defined as those exceeding three times the overall simple average applied rate.
- e International tariff peaks are defined as those exceeding 15%.
- f Nuisance rates are those greater than zero, but less than or equal to 2%.

Note: The 2005 tariff is based on HS 02 nomenclature, consisting of 7,550 tariff lines; the 2007 and 2009 tariffs are based on HS 07 nomenclature consisting, respectively, of 7,645 and 7,867 tariff lines. Calculations exclude in-quota rates and specific rates. The *ad valorem* part of alternate rates is taken into account for the calculations. Calculations of applied MFN tariffs are based on applied rates including interim rates. For 2007 and 2009, interim duty rates are only included when fully applied at the 8-digit level. For 2005, interim duty rates are also included when partly applied to an 8-digit tariff line.

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

Chart III.1

Average applied MFN and final bound tariff rates, by HS section, 2007, 2009, and 2010



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

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

*Applied MFN tariff rates*

19. China's applied MFN tariff rates consist of "standard" applied MFN tariff rates as well as "interim" MFN tariff rates; for the relevant products, the interim tariff effectively replaces the applied MFN tariff, and the interim rates are no higher than the standard applied MFN tariff rates.

20. In 2009, China's applied MFN tariff (including interim rates) consisted of 7,867 lines at the HS 8-digit level (HS 2007), compared with 7,645 lines in 2007.<sup>8</sup> Some 7,815 lines (99.3%) involve *ad valorem* rates. The applied MFN tariff contained 60 different *ad valorem* rates, ranging from zero to 65% (Chart III.2). Non-*ad valorem* rates applied to 52 tariff lines; 44 at specific rates; 5 at rates involving either an *ad valorem* rate, if the price was below or equal to a certain amount, or a compound rate, if the price was higher; and 3 alternate rates (*ad valorem* rate or specific rate, whichever was lower).<sup>9</sup> The authorities provided *ad valorem* equivalents (AVEs) for all but two non-*ad valorem* tariff lines.<sup>10</sup> The authorities maintain that as China bound all its tariff lines at *ad valorem* rates, these AVEs were at or lower than their bound rates.<sup>11</sup> Further, including AVEs does not change the simple average applied MFN duty rate (Table III.1).

21. The authorities stated that China has not increased any of its applied MFN rates in 2009, although apparently China increased the interim tariffs on fuel oil (to 3%) and jet fuel (to 6%) in 2010 to save energy.<sup>12</sup> In 2009, China unilaterally lowered standard applied MFN rates on 5 lines at the HS 8-digit level, and implemented lower interim MFN rates on 673 tariff lines. As a result, the simple average applied MFN duty rate fell from 9.7% in 2007 to 9.5% in 2009.<sup>13</sup> The simple average applied MFN duty rates for agricultural products (WTO definition) and non-agricultural products were 15.2% and 8.6%, respectively.

22. The dispersion in applied MFN rates, indicated by the coefficient of variation, has remained unchanged since 2005, at 0.8%.<sup>14</sup> The standard deviation of tariff rates was 7.4%, slightly lower than the 7.5% in 2007. Also, China's applied MFN tariffs are subject to positive escalation between semi-processed and fully processed products, and in some cases negative escalation between unprocessed and semi-processed products (Chart III.3).

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<sup>8</sup> As at 1 January 2009, 439 tariff lines were fully subject to interim tariffs. Including "ex-" lines, interim tariffs applied to another 234 tariff lines. However, the analysis here includes only the 439 lines that were fully subject to interim rates, which also include lines with non-*ad valorem* rates.

<sup>9</sup> The 3 lines (HS 4001.1000, 4001.2100, and 4001.2200) are subject to interim tariff rates, which are lower or equal to standard applied MFN rates.

<sup>10</sup> The 2 lines are HS 4001.2100, 4001.2200.

<sup>11</sup> Of the 52 lines, 47 have their AVEs exactly the same as their bound rates; 2 lines (HS 3702.5520, 4001.1000) have their AVEs of interim rates lower than their bound rates, and 1 "ex-" line (HS 3702.4291) has its AVE of interim rate lower than its bound rate. According to the authorities, for the 2 remaining lines (HS 4001.2100, 4001.2200) whose AVEs were not provided to the Secretariat, the AVEs are lower than their bound rates.

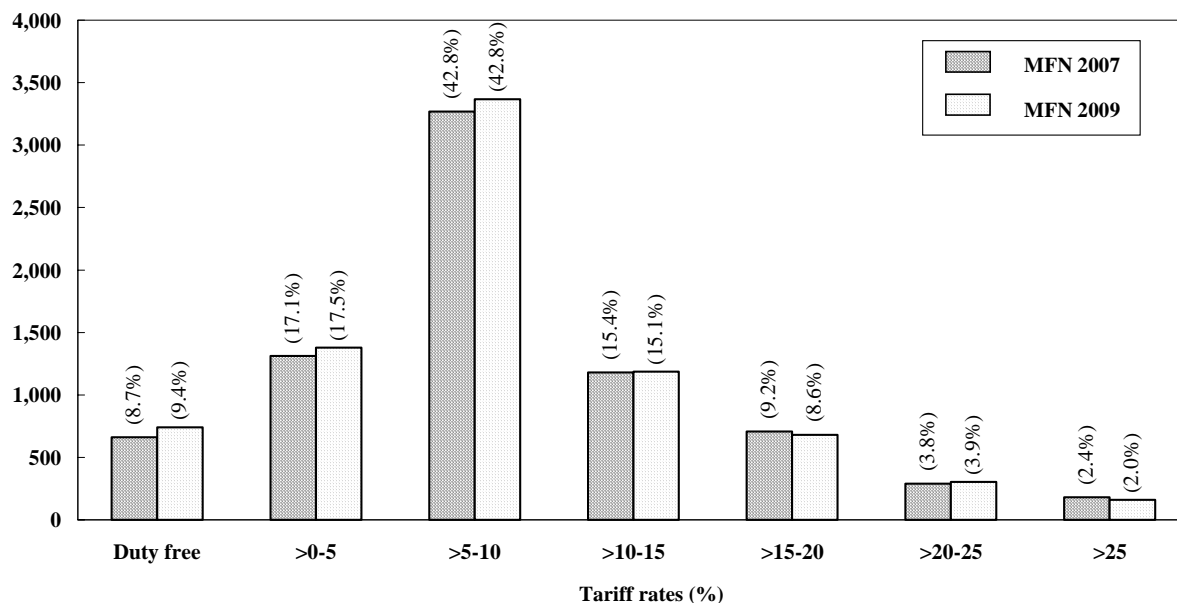
<sup>12</sup> China also eliminated lower interim duties on the imports of pork, soybean oil-cake, and neem oil. As these imports are now subject to "standard" applied MFN tariff (which are higher than the interim tariff rates), they are facing higher tariff rates. (*Xinhua news*, 18 Dec 2008. Viewed at: [http://news.xinhuanet.com/fortune/2008-12/18/content\\_10521558.htm](http://news.xinhuanet.com/fortune/2008-12/18/content_10521558.htm) (in Chinese) [23/03/09].)

<sup>13</sup> Excluding interim rates, the simple average applied MFN tariff rate was 9.8% in 2009, the same as in 2007.

<sup>14</sup> Trade distortions can be caused not only by a high level of tariff protection, but also high disparity of protection across different product categories. The greater the tariff dispersion across products, especially closely related products, the more opportunity there is for tariff evasion.

**Chart III.2**  
**Distribution of MFN tariff rates, 2007 and 2009**

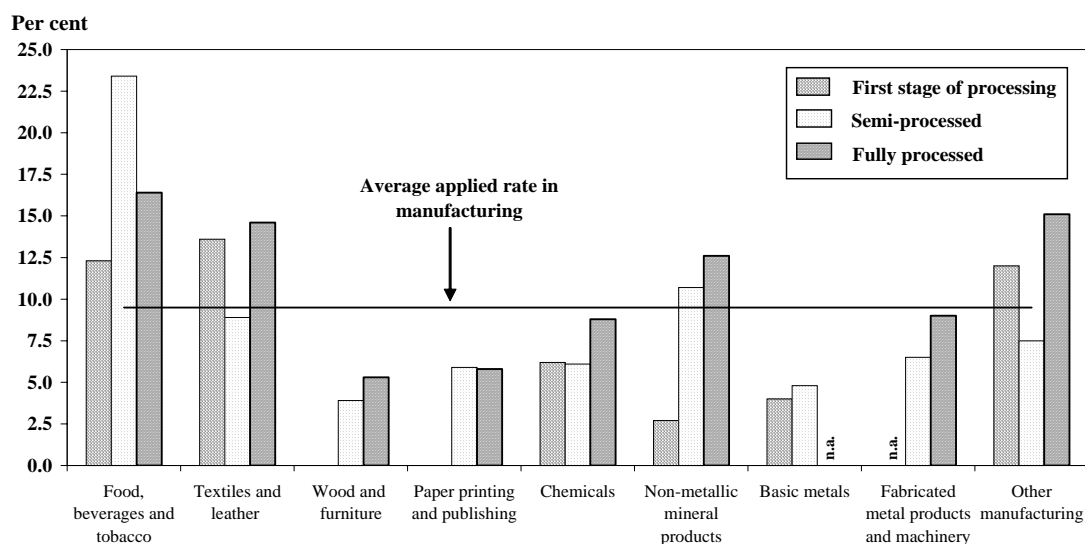
Number of tariff lines



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

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

**Chart III.3**  
**Tariff escalation by 2-digit ISIC industry, 2009**



n.a. Not applicable.

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

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



## (c) Non-MFN rates

23. "Agreement" tariff rates are China's preferential tariff rates under various bilateral/regional trade agreements or arrangements (Table III.2). In addition, China offers special preferential tariffs (zero rated) unilaterally to imports of some goods from 41 least developed countries (LDCs) with which it has diplomatic relations. In November 2009, China announced that, by 2015, it is to gradually eliminate tariffs on 95% of its tariff lines (at the HS 8-digit level) on imports from these LDCs; in 2010, tariffs were eliminated on some 60% of tariff lines.

**Table III.2**  
Summary analysis of China's preferential tariff, 2009  
(Per cent)

	Total		WTO agriculture		WTO non-agriculture		Textiles & clothing	
	Average (%)	Share of duty-free lines <sup>a</sup> (%)	Average (%)	Share of duty-free lines <sup>a</sup> (%)	Average (%)	Share of duty-free lines <sup>a</sup> (%)	Average (%)	Share of duty-free lines <sup>a</sup> (%)
<b>MFN rate</b>	9.5	9.4	15.2	7.1	8.6	9.8	11.5	0.0
<b>Agreement rates</b>								
APTA <sup>b</sup>	8.9	9.7	14.3	7.9	8.0	10.0	10.4	0.0
ASEAN <sup>c</sup>								
Brunei Darussalam	2.6	59.6	4.1	59.0	2.3	59.7	3.6	30.1
Cambodia	8.6	15.8	10.2	39.1	8.3	12.1	11.5	0.0
Indonesia	2.6	59.8	4.0	59.5	2.3	59.8	3.5	31.6
Laos	8.8	14.4	11.9	29.4	8.3	12.0	11.4	0.0
Malaysia	2.6	59.6	4.1	59.3	2.3	59.7	3.5	31.4
Myanmar	2.5	60.5	4.1	59.1	2.3	60.7	3.3	35.9
Philippines	2.7	57.3	4.9	42.1	2.3	59.8	3.5	31.4
Singapore	2.6	59.8	4.1	58.8	2.3	60.0	3.6	30.2
Thailand	2.6	59.6	4.2	57.6	2.3	60.0	3.5	31.7
Viet Nam	2.6	59.6	4.2	55.6	2.3	60.2	3.5	31.8
Hong Kong, China	7.2	29.3	13.1	19.9	6.3	30.8	5.3	49.5
Macao, China	8.3	18.2	14.1	12.9	7.3	19.0	7.7	27.1
Pakistan	6.9	19.2	12.7	13.0	6.0	20.1	5.5	40.6
Chile	2.3	62.6	5.8	43.7	1.7	65.7	0.2	97.2
New Zealand	5.7	24.7	9.7	14.8	5.0	26.3	6.5	18.0
Singapore	8.3	18.3	13.8	12.9	7.4	19.1	11.0	3.0
<b>Least developed preferential rates</b>								
Special preferential tariff agreement for:								
Bangladesh	9.3	10.5	15.1	7.1	8.3	11.1	10.6	4.6
Cambodia	8.8	14.6	12.4	27.1	8.2	12.6	10.5	8.1
Laos	8.8	14.1	13.1	20.7	8.1	13.0	9.7	12.9
Myanmar	9.1	12.3	14.1	14.0	8.3	12.1	10.6	7.3
31 African countries	8.9	15.3	14.7	11.0	7.9	16.0	9.9	13.2
Six Asia/Pacific countries <sup>d</sup>	9.0	13.3	14.8	9.6	8.0	14.0	9.9	11.2

Table III.2 (cont'd)

	Total		WTO agriculture		WTO non-agriculture		Textiles & clothing	
	Average (%)	Share of duty-free lines <sup>a</sup> (%)	Average (%)	Share of duty-free lines <sup>a</sup> (%)	Average (%)	Share of duty-free lines <sup>a</sup> (%)	Average (%)	Share of duty-free lines <sup>a</sup> (%)
Bangladesh <sup>e</sup>	8.7	10.8	14.2	7.9	7.9	11.2	9.7	4.6
Laos <sup>f</sup>	7.8	18.6	9.6	40.6	7.5	15.0	8.9	13.0
Cambodia <sup>g</sup>	8.2	19.0	8.9	50.4	8.1	13.9	10.5	8.1
Myanmar <sup>g</sup>	2.5	60.5	4.1	59.1	2.3	60.7	3.3	35.9
Singapore <sup>h</sup>	2.1	68.5	3.8	64.4	1.9	69.2	3.4	33.1

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

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

c Including Early Harvest Arrangement, as applicable.

d Including Afghanistan, Yemen, Samoa, Vanuatu, the Maldives and Timor-Leste.

e Including APTA preferentials, and special preferential tariff rates.

f Including APTA preferentials, ASEAN preferentials, and special preferential tariff rates.

g Including ASEAN preferentials, and special preferential tariff rates.

h Including ASEAN preferentials, and Sino-Singaporean Free Trade Agreement.

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

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

24. "General" tariff rates are applied to imports whose origin cannot be determined, or if they originate in the countries and regions that are not subject to MFN tariff rates, agreement rates, or special preferential rates (i.e. El Salvador and some territories of EU member states, as well as WTO non-members).<sup>15</sup> The General rates are all higher than or equal to MFN rates. The simple average of the general rates was 57%, much higher than the applied MFN rate (9.5%) (the simple average of the general rates for agricultural products (WTO definition) and non-agricultural products were 68.3% and 55.2%, respectively).

(d) Tariff-rate quotas (TRQs)

25. In 2009, TRQs continue to be applied to 8 categories of imported goods, involving 45 tariff lines at the HS 8-digit level.<sup>16</sup> These TRQs are applied to imports from all countries.

(e) Tariff exemptions and reductions

26. Tariff exemptions apply to: goods whose value per unit including the tariff is Y 50 or less; advertising materials and samples of no commercial value; goods and materials provided free by international organizations or foreign governments; goods damaged prior to Customs release; and

<sup>15</sup> China applies general rates to: El Salvador; Ceuta, Gibraltar, Melilla, which are territories of EU member states; and WTO non-members, namely Andorra, Aruba, Bahamas, Bermuda, Bhutan, Bonaire Islands, Canary Islands, Cayman Islands, Comorin, Curacao, French Guyana, Gambier Islands, Guadeloupe, Liberia, Marquesas Islands, Marshall Islands, Martinique, Montserrat Island, Nauru, Norfolk Island, New Caledonia, Palau, Palestine, Reunion, Sabah, Saint Martins Island, Sao Tome and Principe, the Republic of San Marino, Seychelles, Society Islands, Tuamotu Islands, Tubai Islands, Turks and Caicos Islands, Tuvalu, Vatican City, British Virgin Islands, and Western Sahara.

<sup>16</sup> These were wheat (6 lines), maize (5), rice (14), sugar (6), wool (6), wool tops (3), cotton (2), and chemical fertilizers (3). A sliding duty is applied to out-of-quota imports of cotton. In 2009, this duty was applied so that, for cotton valued above a certain threshold, a specific duty of Y 0.57/kg applied; for cotton valued below the threshold, the rate was calculated based on an equation, but was no higher than 40%, taking into consideration the c.i.f. price of cotton (in Chinese yuan). The threshold for 2009 was Y 11.397/kg. The average applied in-quota rate was 4.8%, while the out-of-quota rate was around 50% in 2009.

fuels, stores, beverages, and provisions for use en route, loaded on any means of transport in transit across the frontier.<sup>17</sup> Tariff exemptions and reductions also apply to goods imported by designated enterprises as specified in certain policies. For example, enterprises (both domestic and foreign-invested enterprises (FIEs)) in "encouraged" industries listed in China's Industrial Restructuring Catalogue and the Catalogue for Foreign Investment, such as those manufacturing equipment for treating air pollutant, may import equipment for their own use, exempt from import tariffs.

27. Tariff exemptions also apply to goods imported in bond under processing trade into Customs controlled areas, if they are exported within a certain period.<sup>18</sup> Processing trade accounted for 48.8% and 32.1% of total exports and imports, respectively, in 2009. To reduce energy consumption and protect the environment, the Government may not grant preferential treatment under processing trade to certain goods. Thus, such goods are "restricted" or "prohibited" from being imported under processing trade. In 2009, based on information from the authorities, 279 lines (HS 8-digit) were subject to import prohibitions (up from 269 in 2007) and another 139 lines were subject to import and export prohibitions under processing trade (section (3)(v)).

28. Further, tariff reductions or exemptions apply to some border trade activities, which accounted for 1.2% of total imports and exports in terms of volume in 2008, up from 0.98% in 2007. Since 1 November 2008, residents within 20 kilometres of the border may import products worth up to Y 8,000 (increased from Y 3,000) per person per day, duty free, through designated places or trade fairs.<sup>19</sup>

### (iii) Indirect taxes affecting imports

29. VAT and excise taxes are also collected at the border on imports. The rates for imports and domestically produced goods are generally the same, although primary agricultural products sold by farmers directly to consumers are exempt from VAT on grounds of, *inter alia*, administrative simplicity, while imports of like products are subject to VAT. The current VAT rates are 17% or 13% for most goods (section (4)(i)(b)). Some imports, such as those destined for export processing zones, may be subject to VAT reductions or exemptions.

### (iv) Import prohibitions and licensing

30. China eliminated quantitative restrictions on imports on 1 January 2005.

#### (a) Import prohibitions

31. China maintains import prohibitions on grounds of public interest, environmental protection, or in accordance with international commitments. In general, prohibited products are listed in Catalogues of Commodities subject to Import Prohibitions, issued by MOFCOM and other relevant ministries, such as the General Customs Administration, AQSIQ or the Ministry of Environmental Protection. Since China's accession to the WTO, six batches of these Catalogues have been released; the latest was issued in 2005 to take effect as of 1 January 2006. Thus, there has been no change to products subject to import prohibitions since the previous Review. In 2009, imports of 52 tariff lines (at the HS 8-digit level) were totally prohibited, and 528 lines were partially (ex-lines) prohibited, covering some products of animal origin, opium, mineral products, chemicals, raw hides, waste of

<sup>17</sup> Regulations on Import and Export Tariff.

<sup>18</sup> If the goods are not exported within the specified period, import duties are collected by Customs.

<sup>19</sup> MOF online information. Viewed at: [http://gss.mof.gov.cn/guanshuisi/zhengwuxinxi/zhengcefabu/200810/t20081031\\_86706.html](http://gss.mof.gov.cn/guanshuisi/zhengwuxinxi/zhengcefabu/200810/t20081031_86706.html) [08/05/09], and MOFCOM online information. Viewed at: <http://www.mof.com.gov.cn/aarticle/b/g/200812/20081205973610.html> [08/05/09].

skins and leather, used clothes, ash of precious metals, used articles of machinery and electronic equipment, and second-hand transport equipment.

32. Imports may also be prohibited on grounds of animal health, plant health, or human safety. For example, China prohibited imports of some meat products from countries with avian flu and/or other animal diseases.

(b) Licensing

33. Since the previous Review, there has been no change in China's import licensing regime, which applies equally to goods from all WTO Members and non-members. Details of commodities subject to import licensing are published annually by MOFCOM, Customs, and the AQSIQ.

*Non-automatic import licences*

34. In 2009, 95 tariff lines (at the HS 8-digit level) were subject to non-automatic import licensing; the lines cover ozone-depleting substances, and specific old mechanical and electronic products.<sup>20</sup> Applicants must apply for an import permit prior to applying for an import licence. Import permits are issued by the Ministry of Environmental Protection or MOFCOM, depending on the product.<sup>21</sup> Once the permit is obtained, a licence is granted automatically by MOFCOM to the importer. The licence is valid throughout the calendar year, and can be extended once, for a maximum of three months.

*Automatic import licences*

35. Automatic import licences are applied to monitor certain imports for statistical purposes. In 2009, 560 lines at the HS 8-digit level (7.1% of total lines) were subject to automatic import licensing, down from 604 tariff lines (7.9% of total lines) in 2007. These concerned mainly poultry, vegetable oil, tobacco, chemical fertilizers, coal, natural rubber, iron ore, crude and processed oil, steel, machinery products, automobile components, and ships.

(v) State trading

36. Under the Foreign Trade Law (2004), the State may subject certain goods to state trading, including to ensure stable domestic supply, stabilize prices, safeguard food safety, and protect the environment and exhaustible resources.<sup>22</sup> In 2009, products imported by state-trading enterprises (STEs) were: grain (including wheat, maize, and rice), sugar, cotton, chemical fertilizer, tobacco, and crude oil and processed oil (Table AIII.2). Imports of vegetable oil (rapeseed oil, palm oil, and soybean oil) have been temporarily removed from the state trading requirement since 2006, although the Government reserves the right to conduct state trading in respect of these products in accordance with China's Accession Protocol.

37. Tobacco must be imported by one state-trading enterprise: the China National Tobacco Import & Export Group Corporation. All other products subject to state trading may be imported by

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<sup>20</sup> Non-automatic licences are also required for imports of chemicals used for military purposes (64 tariff lines at the HS 10-digit level), toxic materials (42 lines), and radioactive isotopes and their compounds (8 lines). (Catalogue of Goods and Technologies Subject to Import and Export Licence Administration. Viewed at: <http://cys.mofcom.gov.cn/accessory/200901/1231052560147.xls> [07/05/09].)

<sup>21</sup> Import permits for ozone-depleting substances are issued by the Ministry of Environmental Protection. For old mechanical and electronic products and other materials, permits are issued by MOFCOM.

<sup>22</sup> China notified the list of STEs to the WTO (WTO document G/STR/N/9/CHN/Add.1, 14 July 2003).

both STEs and non-STE meeting certain requirements.<sup>23</sup> For some products, imports by non-STE were much higher than by STEs (Table AIII.3).

38. Most state trading products are also subject to tariff-rate quotas. Data provided by the authorities show that the shares of tariff-rate quotas allocated to STEs remain high and relatively unchanged. In 2008, STEs accounted for 90%, 70%, 60%, 50% and 33% of total quotas allocated for wheat, sugar, maize, rice, and cotton, respectively, although the shares are declining for NPK (urea fertilizer) and diammonium phosphate (Table AIII.2).

#### **(vi) Contingency measures**

39. China has not made any changes in the institutional and procedural framework on contingency measures since its previous Review. Between 1 January 2007 and 31 December 2008, China adopted 16 anti-dumping measures, making it the sixth most frequent user of anti-dumping measures during that period. Measures involved mainly imports from Japan (4), Chinese Taipei (4), and Singapore (3), and most products were chemical and products thereof (87.5%). China remains the most frequent target of anti-dumping measures: 100 anti-dumping measures were adopted against China during the same period (48 in 2007 and 52 in 2008), partly reflecting China's pre-eminent position as a big exporter.

40. China initiated its first countervailing investigation on 1 June 2009. By the end of 2009, it had initiated three investigations, involving grain-oriented flat-rolled electrical steel, chicken meat, and saloon and cross-country cars, all originating in the United States. On 11 December 2009, China imposed provisional countervailing measures on grain-oriented flat-rolled electrical steel.

41. China has not initiated any safeguard investigations pursuant to the WTO Agreement on Safeguard since its previous Review.

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

##### **(a) Standards and technical regulations**

42. The General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) is the enquiry point for the SPS and TBT Agreements under the WTO. Other AQSIQ functions include quality management, metrology management, food safety, certification and accreditation, and standardization. Through its 31 provincial Bureaus of Quality and Technical Supervision, it is in charge of quality management.

43. China has four types of standards: national, professional, local, and enterprise standards. Within the national, professional, and local standards categories, there are voluntary and mandatory standards. In 2007 (the latest year for which data were available), around 14.5% of national standards, 15% of professional standards<sup>24</sup>, and 19% of local standards were mandatory. Voluntary standards, however, can become mandatory if they are referenced in mandatory conformity

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<sup>23</sup> For wheat, maize, rice, sugar, cotton, and chemical fertilizers, these requirements are specified in the annual announcement of the quota volume and allocation methods issued by MOFCOM; for crude and processed oil, the requirements are set out in MOFTEC (now MOFCOM) Decree No. 27 of 2002 and MOFTEC Announcement No. 19 of 2002.

<sup>24</sup> Data for professional standards are for 2006, the latest year for which data were provided to the Secretariat.

assessment procedures. Concerns were raised in the TBT Committee in cases where no advance notice was given regarding such changes.<sup>25</sup>

44. As at the time of China's previous Review, the major legislation on standards (both voluntary and mandatory) is the Standardization Law of 1988 and its Implementing Regulations. The Standardization Administration of China (SAC), under the AQSIQ, administers standardization in China.<sup>26</sup> It submitted 184 notifications to the WTO on technical regulations in 2008 and 199 in 2009 (Table AII.2).

45. National standards are developed for technical requirements that need to be adopted nationally.<sup>27</sup> National standards take precedence over professional and local standards. Once equivalent national standards are developed, they replace the professional and local standards automatically. In addition, there are national advisory technical documents, which are developed in areas where technology is changing fast and standards need to be developed rapidly. The process of drawing up these documents is the same as that for developing standards, but the review period is three years for national advisory technical documents, while it is five years for standards. National advisory technical documents are thus more likely to reflect fast-changing technology.

46. The process of developing standards has not changed greatly since the previous Review. In January 2009 the SAC announced that foreign-owned companies established in China would be allowed to participate as voting members in technical committees responsible for the promulgation of national standards; the authorities emphasized foreign companies registered in China could always participate in standardization activities, although before 2009 they could participate as observers only.<sup>28</sup> Once a standard is published, relevant technical committees are responsible for initiating a periodic review of the standard. The maximum period between the date of publication of the standard and the review is five years. In 2007, 46.5% of national standards were equivalent to international standards; however, no recent data were provided to the Secretariat. China revised the Measures for the Adoption of International Standards again in 2007 to reinforce the alignment with international standards.

47. The SAC also represents China in international and regional standardization organizations.<sup>29</sup> China has signed some intergovernmental agreements on cooperation in the field of conformity assessment, and participates in the APEC MRA on Conformity Assessment of Electrical and Electronic Equipment (APEC EE MRA).

(b) Sanitary and phytosanitary measures (SPS)

48. The institutional framework for implementing China's SPS measures has remained largely the same during the review period. MOFCOM is in charge of submitting notifications on SPS measures

<sup>25</sup> WTO document G/TBT/W/300, 5 November 2008.

<sup>26</sup> The SAC is in charge of unified management, supervision, and overall coordination of standards in China, by organizing, coordinating, and drafting programmes on the development and revision of national standards, and by examining, approving, and publishing national standards.

<sup>27</sup> When there are no national standards available, but unified technical requirements are needed in a certain professional field at a national level, professional standards are developed. Local standards may be developed where neither national nor professional standards are available, but unified requirements for safety and hygiene of industrial products are needed within a local area. When national, professional or local standards are not available, an enterprise may develop its own enterprise standards, although it is encouraged to adopt national, professional, or local standards if they are available.

<sup>28</sup> WTO documents G/TBT/W/326, 29 October 2009, and G/TBT/M/49, 22 December 2009.

<sup>29</sup> These include the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), and the Pacific Area Standards Congress (PASC).

to the WTO, and the AQSIQ is the Enquiry Point under paragraph 3 of Annex B of the SPS Agreement. The State Food and Drug Administration supervises safety of food, health foods, cosmetics, and pharmaceuticals. Specific supervision of food products and processed food products is provided by the Ministries of Agriculture and Health, and the State Administration of Industry and Commerce (SAIC).

49. China's main SPS legislation includes: the Law on Quality and Safety of Agricultural Products, the Law on the Entry and Exit of Animals and Plant Quarantine, the Food Hygiene Law, the Law on Animal Disease Prevention, the Law on Import and Export Commodity Inspection, the Law on Frontier Health and Quarantine, as well as accompanying implementing regulations and rules. A new Food Safety Law, which entered into force on 1 June 2009, involves, *inter alia*, the promulgation of "unified" national food safety standards.<sup>30</sup> China submitted seven notifications to the WTO on its SPS measures in 2008 and 90 in 2009 (Table AII.2). However, concerns were raised in the SPS Committee about the lack of notification of the new Food Safety Law before its implementation.<sup>31</sup>

50. In response to incidents related to melamine contamination of infant formula (of the Sanlu brand) in 2008, China notified the SPS Committee of a large number of measures that had the objective, *inter alia*, of strengthening product testing of dairy products for domestic consumption as well as for export.<sup>32</sup> In 2009, China also revised its food safety regime for exports of poultry and related products.<sup>33</sup>

51. Entry/exit inspection on SPS grounds is required for products listed in the Catalogue of Entry-Exit Commodities Subject to Inspection and Quarantine, which is formulated by AQSIQ and revised whenever needed to reflect, *inter alia*, consumers' concerns. For example, in 2009, AQSIQ removed 647 tariff lines (at the HS 8-digit level) from the Catalogue, and added 357.<sup>34</sup> Thus, a total of 4,815 tariff lines (at the HS 8-digit level) were listed in the Catalogue in 2009. AQSIQ, through its 35 provincial level Inspection and Quarantine Bureaus (CIQs), is in charge of entry/exit inspection as well as quarantine. Some products not listed in the Catalogue may also require entry-exit inspection; spot checks may be carried out on grounds of safety, sanitary, and environmental protection, or on products about which consumers constantly complain. In addition, China issued its Catalogue of Pests for Entry Plant Quarantine in May 2007, and formulated the Administrative Rules on the Inspection and Quarantine of Imported and Exported Feedstuffs and Feed Additives in 2009, to strengthen inspections on imported and exported plants and feedstuffs.

52. Since July 2008, AQSIQ has been reforming its entry-exit inspection procedures by introducing a direct release system, with a view to facilitating trade. Prior to the reform, importing (and exporting) enterprises were subject to inspections only at the ports. After the reform, some enterprises, when importing certain goods, may undergo inspections at the destination.<sup>35</sup> These imports must be from disease-free areas and transported in sealed containers. Further, not all goods

<sup>30</sup> WTO document G/SPS/N/CHN/121, 27 August 2009.

<sup>31</sup> WTO document G/SPS/R/56, paragraph 179, 28 January 2010.

<sup>32</sup> WTO document G/SPS/R/53, paragraph 5, 22 December 2009.

<sup>33</sup> WTO document G/SPS/N/985, 8 December 2009.

<sup>34</sup> The 647 tariff lines cover, *inter alia*, some primary textile products, mineral products, products of the chemical and related industries, stone articles, and mechanical appliances. The 357 tariff lines cover, *inter alia*, tobacco substitutes, chemical products that can be used as food additives, daily use products, clothes for babies or children, and household appliances.

<sup>35</sup> These enterprises must have, *inter alia*, no administration punishment record in the past two years; annual import and export value above US\$1.5 million; and a management system such as HACCP or ISO9000 (AQSIQ Announcement No. 82 2008. Viewed at: <http://tgyws.aqsiq.gov.cn/xwdt/zdxw/200807/t2008072483155.html> (in Chinese) [20/01/2009]).

can be inspected at their destination; products corresponding to 1,895 tariff lines (at the HS 10-digit level) listed by the AQSIQ, mainly live animals and live plants and feedstuffs, must be inspected at the ports.

53. Some products (including commodities listed in the Catalogue) are exempted from entry/exit inspection and quarantine requirements. These products must have their own brand names and have a leading position in the industry in their country/region of origin in terms of product ranking and quality; a "good reputation" in the international market, with no quality defects or claims; and a 100% product inspection pass rate for the previous three consecutive years. Food, animals, and plants and their products, dangerous goods and their packaging, products with a highly variable quality, and bulk goods (such as mineral ores) are not eligible for exemption.

54. China participates in international organizations related to SPS; it is a member of the World Organization for Animal Health (OIE), the Codex Alimentarius Commission, and the International Plant Protection Convention. In 2007 and 2008, China signed 60 bilateral or regional agreements on standards and SPS measures with WTO Members, including the EU, Japan, and the United States.

(c) Certification and accreditation

55. China's compulsory product certification system is applied to products related to health and safety of human, life and health of animals and plants, environmental protection, and national security.<sup>36</sup> In July 2009, AQSIQ released a revised version of China's Compulsory Products Certification Management Regulation (Circular 117/2009) to, *inter alia*, clarify some aspects of the certification process. Nonetheless, concerns were raised in the TBT Committee that the compulsory product certification system could be burdensome and thus an impediment to trade.<sup>37</sup> The authorities pointed out that improvements have been made continuously, and China was committed to simplifying the procedure of the system and thus mitigate the burden on enterprises.<sup>38</sup>

56. The Certification and Accreditation Administration of China (CNCA) under AQSIQ administers China's compulsory product certification system and the China Compulsory Certification (CCC) mark. The Catalogue of Products Subject to Compulsory Certification, which is revised whenever necessary, lists products requiring the CCC mark. Without a CCC mark, these products cannot be marketed in or imported into China. In 2009, the Catalogue contained 23 groups, and 172 subcategories of products, covering, *inter alia*, electrical wires and tools, household electrical appliances, motor vehicles, safety parts and accessories, and toys.

57. Certain products listed in the Catalogue may be exempted from CCC mark, if they are, *inter alia*, goods for personal use by diplomatic staff, goods for commercial exhibition, or products for research and tests.<sup>39</sup> Exemption from CCC does not necessarily mean exemption from import inspection.

58. Voluntary certifications may be applied for products not requiring a CCC mark. For example, the China Quality Certification Centre (CQC) is responsible for the CQC voluntary certification system (the CQC mark), covering more than 500 products.<sup>40</sup> CQC is also a member of the CB

<sup>36</sup> AQSIQ Decree No. 5, Regulations for Compulsory Product Certification. Viewed at: <http://www.ccc-us.com/rule.htm> [16/01/09].

<sup>37</sup> WTO document G/TBT/W/326, 29 October 2009.

<sup>38</sup> WTO document G/TBT/M49, 22 December 2009.

<sup>39</sup> CNCA Announcement No. 3 of 2005.

<sup>40</sup> CQC online information. Viewed at: <http://www.cqc.gov.cn/English/product/index.asp?ProductTypeID=34> (in English) [15/01/09].



Scheme of the IEC System for Conformity Testing and Certification of Electrical Equipment (IECEE), and can issue the CB Test Certifications recognized by 52 countries and regions within the CB Scheme.<sup>41</sup>

59. China has been participating actively in regional and international MRAs on certification and accreditation.<sup>42</sup> China has established the national accreditation system for certification and inspection bodies and laboratories, in accordance with the ISO17020, ISO17021, and ISO17025 standards.

(d) Labelling

60. China's labelling requirements are maintained under the Standardization Law, the Food Hygiene Law, the Law on Product Quality, and various regulations on, *inter alia*, food, drugs, and cosmetics. Labels must be written in Chinese, except for products manufactured in China for export only.

(viii) Government procurement

61. There have been no substantial changes to China's regulatory regime or institutional framework for government procurement. The Government's objectives of improving efficiency in the use of public funds, protecting the rights and interests of the parties participating in government procurement, and promoting better governance have not changed.<sup>43</sup>

62. China is an observer to the WTO Government Procurement Agreement (GPA). It applied for accession to the Agreement on 28 December 2007 and its initial offer was circulated to parties in January 2008.<sup>44</sup> Subsequently, it has submitted information on its domestic legislation, and held several rounds of consultations with parties. It has also provided further information on its GPA accession preparations, and the challenges it faces in this regard. Parties have expressed their willingness to work with China to facilitate its accession process; in 2009, China submitted a progress report that was well received by parties.<sup>45</sup> A revised offer and further consultations with the parties are expected in the course of 2010.<sup>46</sup>

63. The main laws regulating government procurement procedures in China are the Government Procurement Law of 2002 together with the Law on Bid Invitation and Bidding or Tendering of 1999.

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<sup>41</sup> Other voluntary certifications include certification of feeds, good agricultural practices (GAP), hazard-free agricultural products, organic products, as well as certifications on management systems such as the hazard analysis and critical control points (HACCP) system, the ISO-9000 system, and the ISO-14000 system.

<sup>42</sup> These include the International Laboratory Accreditation Cooperation (ILAC) MRA; the Asia Pacific Laboratory Accreditation Cooperation (APLAC) MRA; the Pacific Accreditation Cooperation (PAC) multilateral MRA pertaining to quality management system; the International Accreditation Forum (IAF) Multilateral Agreement; and the International Auditor and Training Certification Association (IATCA) MRA. China National Accreditation Committee for Laboratories (CNACL) and the Laboratory Accreditation Committee on Import and Export Commodity Inspection of China (CCIBLAC) are both members of ILAC and APLAC.

<sup>43</sup> Law on Government Procurement, Article 1.

<sup>44</sup> WTO documents GPA/ACC/CHN/1, 7 January 2008, and GPA/93, 14 January 2008.

<sup>45</sup> Subsequently, some parties have expressed concerns in the GPA Committee regarding (i) recently tabled draft Chinese procurement regulations that do not, in their view, move China decisively toward GPA compliance; and (ii) China's indigenous innovation initiative, which allegedly contains a number of preferential features raising issues *vis-à-vis* the GPA and other WTO Agreements.

<sup>46</sup> WTO document GPA/103, 12 November 2009, paragraphs 15-17.

Other laws such as the Budget Law, the Contract Law, the Product Quality Law, the Price Law, and the Anti-Unfair Competition Law may also have a bearing on government procurement.

64. The Government Procurement Law prescribes the principles and methods to be followed by government entities in procuring goods and services in China and sets out procedures for contract awards, transparency, complaints, and the supervision of government procurement processes.

65. Under the Law, the Government should procure domestic goods, projects, and services.<sup>47</sup> However, there are no provisions on local content, or rules of origin, to determine whether a product is produced domestically. Purchasing of foreign products may be allowed under exceptional circumstances; e.g., when the goods, projects, or services required are unavailable in China or unavailable on reasonable commercial terms, or when the goods, projects and services are procured for use outside China. Nonetheless, in practice, procurement of foreign products appears to occur routinely, although there are no data on the annual value or proportion of procurement of foreign products. Hence, in 2009 in view of the stimulus package provided, the Government reiterated the importance of abiding by the Law to attain the State goals for economic and social development.<sup>48</sup>

66. China's government procurement system was established in the 1990s. Between 1998 and 2007, the total value of government procurement increased from Y 3.1 billion to Y 466.1 billion, an annual growth rate of 11%.<sup>49</sup> In 2008, government procurement, valued at Y 599.1 billion, accounted for 2% of GDP (in many countries, government procurement can account for 15-20% of GDP). The authorities maintain that this small percentage is mainly because China's government procurement system is new, and the coverage is small. It covers only procurement by government departments, institutions, and public organizations at all levels, using fiscal funds, for goods, construction, and services listed in a Centralized Procurement Catalogue issued by the Ministry of Finance or provincial bureau of finance, or where the value is above a prescribed threshold.<sup>50</sup> Procurement by SOEs is not covered, even when they may be performing non-commercial or quasi-governmental functions.

67. Goods and services may be procured using: public invitation or tendering, invited bidding, competitive negotiation, single-source procurement, request for quotations, and other methods confirmed by the supervising department under the State Council (i.e. the Ministry of Finance), depending on the circumstances. Public invitation (a form of open tendering) is required for procurement of items exceeding the prescribed procurement thresholds. In 2009-10, the thresholds for central government procurement are Y 1.2 million for goods and services, and Y 2 million for construction projects. Approval by the Ministry of Finance is required for procurement exceeding these thresholds by any other method. The method of procurement for procurement below these thresholds is decided by the procuring entity, in accordance with the Law. Invited bidding may be used if the goods or services have special characteristics that limit the number of suppliers or if the cost of purchase through public tender is too high as a proportion of the total value of the procurement. The procurement agency must identify at least three qualified suppliers and invite them

<sup>47</sup> Law on Government Procurement, Article 10.

<sup>48</sup> NDRC (2009).

<sup>49</sup> CCGP online information. Viewed at: <http://www.ccgp.gov.cn/cggt/809459.shtml> (in Chinese) [23/01/09]. Local government entities have been playing a major role in the total value of government procurement, accounting for 90.2% in 2008.

<sup>50</sup> Article 8 of the Government Procurement Law specifies that the thresholds for government procurement items under the central budget are prescribed and published by the State Council, and the thresholds for items under local budget are prescribed and published by local governments (of provinces, autonomous regions, municipalities), or the department authorized by them. For example, in 2010, the threshold for procurement under the central budget is Y 500,000 for goods and services, and Y 600,000 for construction projects (<http://www.zycg.gov.cn/Policy/Policy/2008-12-23/200812231524401854.htm> (in Chinese)).

to submit bids. Competitive negotiations may be authorized when: a public tender has failed to result in the award of a contract; the goods or services are technologically complex or have other special characteristics; the procurement is to be conducted urgently; or it is not possible to calculate the total price in advance. Request for quotation is used when: the specifications and standards of the goods are uniform; there is an abundant stock of existing goods; and fluctuations in prices are small. Single-source procurement is used when there is only one supplier; in case of an emergency; and for purposes of maintaining uniformity or complementarity of services procured previously, provided that the total amount of the additional procurement does not exceed 10% of the value of the original contract. The Law states that public invitation or tendering should be the principal method of procuring. According to the most recent information provided by the authorities, procurement by public tendering continued to be the most common method in 2007, accounting for 70% of total procurement value (67.7% in 2006). Procurement of construction and engineering projects is regulated by both the Government Procurement Law, and the Law on Bid Invitation and Bidding or Tendering.

68. Procuring entities must announce government procurement and bidding information in media designated by the Ministry of Finance in a timely and standard manner to ensure transparency and fair competition.<sup>51</sup> Suppliers, if unfairly excluded from procurement processes or treated in a discriminatory way, can complain to the procuring agency, appeal to the Government Procurement Division of the Ministry of Finance, or subsequently file a complaint with a court.

69. China has not signed any bilateral, regional, or multilateral agreement on government procurement.<sup>52</sup> Partly reflecting its intention to join the WTO GPA, in 2007, China made legal provisions for the inclusion of imported products under certain circumstances into its government procurement system.<sup>53</sup> Imports used for procurement purposes require an approval from the Ministry of Finance, or its corresponding departments at the local level. Local governments appear to account for a major part of government procurement in China, although no recent data were provided to the Secretariat (in 2006, they accounted for some 80% of the total value of government procurement).<sup>54</sup> The Y 4 trillion economic stimulus package announced in November 2008 will further increase the size of China's government procurement.

70. China continues to face challenges in implementing a consistent and transparent approach to procurement across all levels of government. From May to October 2008, the Ministries of Finance, Supervision, National Audit Office, and National Anti-Corruption Bureau conducted a joint investigation of government procurement in China. Problems identified include: circumventing the government procurement system; giving preferences to specific suppliers; and lack of budget constraints for government procurement programmes. This is due mainly to the size of the Government and the number of local government entities, in addition to historical and institutional differences in approach across regions, which leads to inconsistent application of the Law. To solve these problems, the Government has been, *inter alia*: accelerating the formulation of the Implementation Regulations of the Government Procurement Law, improving coordination between the Government Procurement Law and the Law on Bid Invitation and Bidding or Tendering, and

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<sup>51</sup> The official government procurement website is [www.ccg.gov.cn](http://www.ccg.gov.cn).

<sup>52</sup> CCGP online information. Viewed at: <http://www.ccg.gov.cn/web/cgf/zongze3.asp> (in Chinese) [12 February 2008].

<sup>53</sup> Measures on Administration of Government Procurement of Imports, issued by the Ministry of Finance and effective 27 December 2007. In July 2008, the Ministry of Finance, in consultation with the Customs, issued a notification to further regulate government procurement of imported products, to clarify Article 10 in the Government Procurement Law (CCGP online information. Viewed at: <http://www.ccg.gov.cn/gzdt/724707.shtml> (in Chinese) [23/01/09]).

<sup>54</sup> WTO (2008).

promoting competition between government procurement agencies. Also, although the Law tends to promote SMEs, it does not specify measures to promote the development of SMEs in the government procurement framework.

**(ix) Import-related financing**

71. The Export-Import Bank of China (EXIM Bank) offers import credit to importers in China to facilitate imports of key technologies and equipment, or petroleum, natural gas, and other mineral products in large-volume and long-term containers. In 2008, EXIM Bank facilitated imports of resource-based products and technical equipment to a value of US\$96.1 billion.

**(3) MEASURES DIRECTLY AFFECTING EXPORTS**

**(i) Procedures**

72. China has continued its reform on Customs transit procedures for exports, to simplify procedures for enterprises located in inland areas. Exporters now go through Customs transit procedures only at the place where they are registered; before the reform, exporters from inland areas had to go through Customs transit procedures at the inland Customs, before declaring goods at Customs at the departing port.

73. Exports of animals and plants and their products are subject to SPS requirements similar to those on imports and to the requirements of the importing country. After the AQSIQ's reform of its entry-exit inspection procedures and the introduction of the direct-release system in July 2008, enterprises exporting certain products may go through inspection at their production areas, rather than at ports. AQSIQ has a positive list of these products, comprising 2,623 tariff lines at the HS 10-digit level.<sup>55</sup> However, exports of these products still need to be inspected at the port if they are transported in bulk, are for foreign assistance, need to be repacked at ports, or are subject to bilateral or regional agreements requiring SPS inspection at the border. Goods that do not meet the SPS requirements are not allowed to leave the country.

74. China's other customs procedures on exports (and imports) have not changed since its previous Review. Exporters must register with Customs before making customs declarations, which must be made after the goods arrive at the customs surveillance zone, and 24 hours before loading, unless otherwise approved by Customs. China does not require preshipment inspection (PSI) for exports; its PSI agencies inspect exports for its trading partners that require PSI. Licences are required for exports subject to restrictions (section (vi) below).

**(ii) Export subsidies**

75. The authorities state that China does not provide any export subsidies. China made commitments, when it joined the WTO, not to maintain or introduce any export subsidies to its agricultural products.<sup>56</sup>

**(iii) Export taxes**

76. China's export taxes, in the form of statutory rates and interim rates (applied for a specific period), are levied on an MFN basis.<sup>57</sup> The customs value of export goods is based on the transaction

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<sup>55</sup> AQSIQ online information. Viewed at: <http://tgyws.aqsiq.gov.cn/xwdt/zdxw/200807/P020080729584402885325.xls> [17/11/09].

<sup>56</sup> WTO document WT/L/432, 23 November 2001.

value of the goods, together with its transportation, insurance, and other relevant costs for the goods to arrive at the departing point but before loading. Interim export duty rates can be higher than statutory export tax rates; where there are interim export duties on export goods to which the statutory export taxes are applicable, the interim rates apply. Thus, in 2009, statutory export taxes were applied to 95 tariff lines (at the HS 8-digit level), of which, 66 lines were subject to lower and 3 to higher interim export taxes.<sup>57</sup> Interim export taxes also applied to 258 tariff lines that were not subject to statutory export taxes. Most export duties involve *ad valorem* rates ranging from 0 to 40%; the simple average was around 13.5%.

77. From time to time, China has been revising its export tax rates or adjusting the list of commodities subject to export taxes, or levying special export taxes, with a view to curtailing exports of certain products, including restricting exports of highly polluting and high-energy-consuming products; promoting environmental protection; improving sustainable economic development; and conserving natural resources. The authorities maintain that these export taxes and their adjustments are consistent with WTO disciplines as they are based on Article XX of GATT 1994. It seems that from 2008 China started to levy special export duties, mainly on some chemical fertilizers. In 2009, 35 lines (at the HS 8-digit level) were subject to special export duties.<sup>59</sup> They included mainly chemical fertilizers and their raw materials. If including special export duties, the simple average export tax rate was around 20% in 2009.<sup>60</sup> China also removed or lowered export taxes on some products to mitigate the negative effects of the global crisis on its exports; for example, as of 1 July 2009, China removed or lowered export taxes on, *inter alia*, wheat, rice, fertilizers, steel, and some non-ferrous metals.

78. Although the authorities believe that export taxes could help conserve natural resources or protect the environment, their economic effectiveness in achieving these objectives is questionable (Box III.1).

**(iv) Tax rebates on exports**

79. Excise tax is fully rebated on exports.

80. VAT may be rebated on exports, although the rebate rates are, by and large, lower than the VAT rates actually paid. The difference between the two rates constitutes a levy on exports, which may in turn constitute assistance to downstream processing of the products affected (Box III.1). China adjusts VAT rebate rates as part of its industrial policies, to control, restrict, or otherwise "manage" the export of certain products. In particular, since the beginning of the global financial crisis, China has increased VAT rebate rates several times, the last one in June 2009. VAT rebates on exports reached Y 648.7 billion in 2009, some 7.9% of total merchandise exports (up from Y 586.6 billion and 5.9% in 2008).<sup>61</sup>

<sup>57</sup> In Annex 6 of its Protocol of Accession, China listed 84 lines at the HS 8-digit level at statutory export tax rates, and confirmed these would be the maximum export tax levels (WTO document WT/ACC/CHN/49, 1 October 2001).

<sup>58</sup> HS 7201.1000, 7201.2000, 7201.5000 had interim rates at 25%, higher than the corresponding statutory export duty rate of 20%.

<sup>59</sup> China Tariff Schedule 2009. Some lines were subject to special export duties only.

<sup>60</sup> According to China's 2009 Tariff Schedule, these special export duties were levied at two rates, 50% or 75%.

<sup>61</sup> These figures include rebated excise tax on exports, which is negligible.

**Box III.1: Export restrictions in China and their economic implications**

Export restrictions, explicit or implicit, are a major feature of China's trade regime. The main explicit restrictions involve:

- export prohibitions;
- export quotas;
- export licensing requirements; and
- export taxes. (The Government pointed out that export taxes are not used to raise tax revenues but are levied to preserve exhaustible natural resources and to protect the environment. The not-fully-rebated VAT, however, was originally due to lack of fiscal capacity.)

Implicit export restrictions include:

- less-than-full rebate of VAT on exports (the difference between the VAT rate actually paid, and the rebate rate, constitutes a levy on exports); and perhaps
- state trading arrangements, whereby exports of certain products may be curtailed as a result of regulations requiring them to be exported through state-trading entities. (The authorities pointed out whether state trading arrangements become import or export restrictions depends on specific circumstances.)

The officially-stated rationale for these restrictions include:

- implementation of China's international obligations, which requires prohibitions and/or licensing;
- conservation of natural resources, using prohibitions, export quotas, licensing and taxes;
- environmental protection and energy saving, using quotas, taxes, and only partial VAT rebates;
- ensuring stable domestic supply, and therefore avoiding large price fluctuations, in certain products, using quotas, export taxes, only partial VAT rebates, and state trading; and
- management of trade so as to, for example, reduce China's current account surplus.

However, whether intended or not, export restraints for whatever reason tend to reduce export volumes of the targeted products and divert supplies to the domestic market, leading to a downward pressure on the domestic prices of these products. The resulting gap between domestic prices and world prices constitutes implicit assistance to domestic downstream processors of the targeted products and thus provides them a competitive advantage. Insofar as China is a major supplier of such a product, export restraints may also shift the terms of trade in China's favour. Also, some export restrictions might be imposed to pre-empt imposition of import restrictions by governments in export markets.

More generally, export restraints may not be the best way to achieve some of the objectives/rationales mentioned above. In particular, restricting the export of some highly polluting or high-energy consuming products is not the most economically efficient way to protect the environment or reduce energy consumption. Nor are export restraints the best way to conserve natural resources. China is starting to consider more suitable internal (rather than trade) measures to achieve these objectives. Although the Government increased its export restrictions on rare earth by, for example cutting export quotas or increasing export taxes, it has imposed domestic production caps on rare earth and is considering levying an environmental tax on the production/extraction of natural resources during the 12<sup>th</sup> Five-Year period (2011-15), with a view to preserving non-recyclable natural resources and protecting the environment.

*Source:* WTO Secretariat.

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

81. Under the mode of "processing trade", import tariffs are exempted if the goods are imported in bond and exported within a certain period. However, some products are "prohibited from being exported under processing trade". If these products are not prohibited from being exported under normal trade (see below), their export is allowed; however, when exported under normal trade, like other products, import tariffs must be paid on their imported inputs. As China does not have tariff drawbacks, these tariffs can constitute taxes on exports (Box III.1). In 2009, 1,016 tariff lines at the

HS 8-digit level were subject to export prohibitions (up from 617 lines in 2007), and another 139 lines were subject to both import and export prohibitions under processing trade.

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

**(a) Export prohibitions**

82. Products listed in the Catalogues of Products subject to Export Prohibitions are prohibited from being exported under normal trade, mainly because of China's international obligations and domestic considerations regarding environmental and human health protection, and preservation of natural resources. China has released five batches of export prohibition catalogues since its accession to the WTO; the last took effect on 1 January 2009. Three tariff lines at the HS 8-digit level were added, covering some peat and animal or vegetable fertilizers. In total, China maintained general export prohibitions on 45 items at the HS 8-digit level in 2009.

**(b) Export quotas and licensing**

83. Since the previous Review of China, there has been no significant change to its export quota and licensing regime.

*Export quotas*

84. China applies both global quotas and destination-specific quotas. Destination-specific quotas apply to live cattle, live swine, and fowl to be exported to the Hong Kong and Macao SARs. After exporters obtain a quota, an export licence is issued by MOFCOM. In 2009, global export quotas applied to 173 lines at the HS 8-digit level, 27 lines more than 2007, although export quotas on silk and silk cocoons were removed from January 2009.

85. The method of allocating quotas remains the same; some quotas are allocated by the NDRC or MOFCOM, some through a bidding process (Table III.3). When allocating quotas, the Government considers an enterprise's export performance, its previous quota usage, business performance, and production volume in the previous three years. Some products are subject to state trading (section (viii) below). For these products, export quotas are allocated directly to state trading enterprises. For other products, MOFCOM allocates quotas either directly to enterprises, or to departments at the provincial level, which allocate quotas to enterprises.

*Export licences*

86. China's export licensing requirements are implemented mainly to fulfil its obligations under international agreements.<sup>62</sup> In 2009, 231 lines at the HS 8-digit level were subject to export licensing; these do not cover lines subject to global export quotas.<sup>63</sup> Of the 231 lines, exporters of products corresponding to 139 tariff lines can obtain a licence from MOFCOM or its authorized agencies if they have the relevant export contracts. For the remaining 92 tariff lines (covering mainly substances depleting ozone, and some metals and their products), exporters must obtain a permit prior to applying

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<sup>62</sup> Including: the Montreal Protocol on Substances that Deplete the Ozone Layer; the Conventions on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction; the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; and the Basel Convention on the Control of Transboundary Movement of Hazardous Waste and Their Disposal.

<sup>63</sup> In addition, exporters of chemicals that may be used for military purposes, and toxic materials, must obtain export licences from MOFCOM before exporting.

for a licence. Export permits are granted by the Ministry of Environmental Protection (for ozone-depleting substances) and MOFCOM (for others). After the exporter obtains the permit, an export licence is issued automatically by MOFCOM or its authorized agencies.

**Table III.3**  
**Products subject to export quotas and licensing, 2009**

Measures	Products
Quotas allocated by NDRC	Rice, maize, wheat, cotton, coal
Quotas allocated by MOFCOM	Live cattle, live swine and fowl (for Hong Kong and Macao SARs), maize flours, rice flours, wheat flours, sawn timber, coke, crude oil, processed oil, rare earth, antimony and its products, tungsten and its products, zinc ore, tin and its products, silver, indium and its products, molybdenum, phosphate rocks
Quotas allocated through bidding	Rushes and rushes products, silicon carbide, fluorspar lump (powder), talc lump (powder), light (dead) burned magnesium, bauxite, liquorice and its products
Export licences (where a licence is granted if the exporter has the relevant export contract)	Live cattle, live swine and fowl (for markets other than Hong Kong or Macao SARs), beef, pork, chicken meat, paraffin wax, platinum (through processing trade only), automobiles (including completely knocked down) and chassis, motorcycles (including all terrain motorcycles) and their engines and frames, vitamin C, industrial salts of penicillin, disodium sulphate, some metals and their products (excluding ferroalloy)
Export licences (A permit is required before applying for a licence)	Substances depleting ozone, zinc and zinc-base alloy, ferroalloy, natural sands (including standard sands), molybdenum products, citric acid

Source: MOFCOM online information. Viewed at: [www.mofcom.gov.cn](http://www.mofcom.gov.cn).

#### (vii) Measures maintained by importing countries

87. MOFCOM continues to identify major trade barriers to Chinese exports in its annual Foreign Market Access Report. According to the 2009 Report, in 2008 WTO Members initiated 93 anti-dumping, countervailing, safeguard, and product-specific safeguard investigations against Chinese exports, at a value of US\$6.1 billion, an annual increase of 69.4%.<sup>64</sup>

#### (viii) State trading

88. China maintains state trading on some exports with a view to: ensuring stable domestic supply; avoiding drastic price fluctuations in international markets; safeguarding food safety; and protecting exhaustible and non-recyclable natural resources and the environment. State trading is not used to fulfil the Government's contractual obligations, except in certain circumstances, such as food aid to foreign countries.<sup>65</sup>

89. Exports subject to state trading remain the same as at the time of the previous Review, covering maize, rice, coal, crude and processed oil, cotton, antimony and antimony products, tungsten and tungsten products, silver, and tobacco (Table AIII.4). China has temporarily abolished its state trading requirement for exports of tea and silk; and has not applied state trading arrangements since its WTO accession on soybeans, unbleached silk and cotton sewed thread. China reserves its right to subject these exports to state trading arrangements.

90. While imports subject to state trading may be imported by non-state-trading enterprises (STEs), state trading of exports must be conducted by STEs. Some STEs, however, are not State-owned enterprises (SOEs) (for example, for the exports of tungsten, antimony, and silver). According to the authorities, export prices charged by STEs are determined by the enterprises

<sup>64</sup> MOFCOM (2009).

<sup>65</sup> WTO document G/STR/N/9/CHN/Add.1, 14 July 2003.



themselves, based on, *inter alia*, domestic prices plus transportation and storage costs, interest rates, inspection fees, and international market prices.

**(ix) Export facilitation and marketing assistance**

91. China facilitates exports mainly through export finance operated by the Export-Import Bank of China (EXIM Bank), export credit insurance by the China Export & Credit Insurance Corporation (SINOSURE), and export fairs. According to the authorities, there are no local-content requirements to obtain export finance and insurance from EXIM Bank and SINOSURE. China used to provide tax concessions to foreign-invested enterprises based on their export performance; these tax preferences were removed in 2008 when the Enterprise Income Tax Law entered into effect (section (4) below).

92. The EXIM Bank is the only policy bank providing export credit in China. In 2008, the Bank approved credits of Y 402.4 billion, of which, Y 296.1 billion of loans were actually provided, up by 53% and 51% respectively, from the previous year. By providing financial support, the Bank stated that it facilitated US\$102.8 billion of exports and overseas investment projects, including exports of mechanical and electronic products, high- and new-tech products, and agricultural products. By end 2008, the NPL ratio of the EXIM Bank was reduced to 1.52%.<sup>66</sup>

93. SINOSURE is the only official export and credit insurance company in China. As a wholly state-owned company, SINOSURE was set up to facilitate exports, particularly high value-added and high-tech capital goods. Between 2002 and 2008, SINOSURE facilitated more than US\$170 billion of China's exports and outward investment, and helped more than 110 banks to provide Y 350 billion in export finance to exporters.<sup>67</sup> The share of total exports with SINOSURE credit insurance was 3% in 2006 (the latest data available to the Secretariat).

94. Other export assistance includes online information provided by MOFCOM to facilitate exporters, export fairs held by China Foreign Trade Centre under MOFCOM, consultation services offered by the China Council for the Promotion of International Trade (CCPIT), and the International Market Exploration Fund managed by MOFCOM and MOF, to promote SMEs participation in overseas exhibitions. In an attempt to fight the global crisis, the Government launched campaigns to facilitate China's exports, such as the "421 project" by MOFCOM, under which US\$42.1 billion in export credits was provided for machinery and electronics products in 2009.

**(4) MEASURES AFFECTING PRODUCTION AND TRADE**

**(i) Taxation and tax incentives**

**(a) Overview**

95. China's tax revenue has been increasing rapidly; it was up by 18.9% in 2008, almost double the GDP growth rate (9.6%), although the growth rate slowed to 9.8% in 2009 (Table III.4).<sup>68</sup> The share of tax revenue in GDP increased slightly, from 17.3% in 2008 to 17.7% in 2009.

96. During the period under Review, China has continued its various tax reforms, with a view to making its tax system simpler, more neutral, and more equitable. For example, it unified income taxes for foreign-invested enterprises and domestic enterprises, transformed the VAT from a

<sup>66</sup> EXIM Bank online information (20 January 2009). Viewed at: [http://www.eximbank.gov.cn/xwzx/article/xwzx/yaowen/200901/9097\\_1.html](http://www.eximbank.gov.cn/xwzx/article/xwzx/yaowen/200901/9097_1.html) (in Chinese) [28/01/09].

<sup>67</sup> Sinasure online information. Viewed at: [www.sinasure.com.cn](http://www.sinasure.com.cn).

<sup>68</sup> Tax grew even faster in 2007, at 31.1%, well above the GDP growth rate of 14%.

production-based to a consumption-based tax, and increased the threshold for payment of individual income tax. China also implemented a series of tax policies to promote rural development, technological innovation, energy conservation, and environmental protection. A more neutral tax policy could indicate the Government is to adopt less direct interference measures into the allocation of resources.

**Table III.4**  
**Tax revenue, 2005-09**

	2005	2006	2007	2008	2009
<b>Total government revenue (Y billion)</b>	3,164.9	3,876.0	5,132.2	6,133.0	6,847.7
Central government (%)	52.3	52.8	54.1	53.3	52.4
Local government (%)	47.7	47.2	45.9	46.7	47.6
<b>Tax revenue (Y billion)</b>	2,877.9	3,480.4	4,562.2	5,422.4	5,951.5
Central government (%)	55.8	56.2	57.8	57.1	..
Local government (%)	44.2	43.8	42.2	42.9	..
<b>Indirect taxes (% of total tax revenue)</b>	74.2	72.7	73.8	72.5	74.0
Consumption (excise) tax <sup>a</sup> (% of total tax revenue)	5.7	5.4	4.8	4.7	8.0
Value-added tax <sup>b</sup> (% of total tax revenue)	37.5	36.7	33.9	33.2	31.1
Consumption tax and VAT collected at the border (% of total tax revenue)	14.6	14.3	13.5	13.6	13.0
VAT and consumption tax rebates for exports (% of total tax revenue)	-14.1	-14.0	-12.4	-10.8	-10.9
Tariffs (% of total tax revenue)	3.7	3.3	3.1	3.3	2.5
Business tax (% of total tax revenue)	14.7	14.7	14.4	14.1	15.1
Agriculture-related taxes <sup>c</sup> (% of total tax revenue)	3.3	3.1	3.2	3.1	..
<b>Direct taxes (% of total tax revenue)</b>	25.8	27.3	26.2	27.5	26.0
Enterprise income tax (% of total tax revenue)	18.6	20.2	19.2	20.6	19.4
Individual income tax (% of total tax revenue)	7.3	7.1	7.0	6.9	6.6
<b>Total government expenditure (Y billion)</b>	3,393.0	4,042.3	4,978.1	6,259.3	7,587.4
Central government (%)	25.9	24.7	23.0	21.3	..
Local government (%)	74.1	75.3	77.1	78.7	..

.. Not available.

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

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

c As of 2006, agriculture-related taxes comprise deed tax, farmland occupation tax, and tobacco leaf tax.

*Source:* National Bureau of Statistics of China, *China Statistical Yearbook 2009*; Ministry of Finance online information. Viewed at: [http://szs.mof.gov.cn/shuizhengsi/zhengwuxinxi/gongzuodongtai/201002/t20100211\\_270552.html](http://szs.mof.gov.cn/shuizhengsi/zhengwuxinxi/gongzuodongtai/201002/t20100211_270552.html) (in Chinese) and [http://gks.mof.gov.cn/guokusi/zhengfuxinxi/tongjishuju/201002/t20100205\\_269099.html](http://gks.mof.gov.cn/guokusi/zhengfuxinxi/tongjishuju/201002/t20100205_269099.html) (in Chinese) [22/02/10]; and WTO Secretariat calculations.

(b) Indirect taxes

97. Indirect taxes, including VAT, consumption tax, and business tax, account for most of China's tax revenues (74% in 2009).

98. Since its previous Review, China has continued to reform its indirect taxes with a view to lowering tax burdens and thereby encouraging consumption (except for some energy products such as coal and refined oil, whose VAT and/or consumption tax rates were raised to help save energy and protect the environment).

*Consumption tax*

99. China's consumption tax, which is essentially an excise, is levied on certain domestically produced products as well as imports thereof; it is rebated fully on exports.

100. China revises its consumption tax from time to time, mainly to encourage energy saving and environmental protection (Table AIII.5). For example, as of 1 September 2008, the consumption tax was increased for high-emission passenger vehicles, and reduced for low-emission passenger vehicles. Petrol tax reform began in 2009; the Government cancelled charges on six items, including road maintenance fees, but raised the consumption tax on gasoline diesel; and other refined oils.

*Value-added tax*

101. China's main indirect tax is its value added tax (which, excluding tax collected at the border, accounted for some 31% of tax revenue in 2009); the revenue is shared 75:25 between the Central and local governments. VAT is levied at a standard rate of 17% and a lower rate of 13% on certain items; in 2009, VAT rate was raised from 13% to 17% on mineral products (such as coal, aluminium, copper), but lowered to 3% for small-scale tax payers (section (d) below). Exporters are entitled to VAT rebates, but the VAT is often not fully rebated (section (3)(iii)).

102. In 2009, China transformed its VAT from a production-based to a consumption-based tax at the national level.<sup>69</sup> Before the reform, VAT paid on inputs, including capital equipment, could not be offset against the VAT payable on the final product. This was partly corrected by not collecting VAT at the border on imported capital goods. Following the reform, VAT paid on capital is credited against VAT on the final product.<sup>70</sup> Thus, the VAT exemption on imported capital equipment was discontinued (although tariff exemptions remain). The authorities consider the transformation helps remove the cascading effects of the production-based VAT. Because of the transformation, China's tax revenue was reduced by Y 140 billion in 2009.<sup>71</sup>

*Business tax*

103. Business tax continues to be applied to domestic taxable services, transfers of intangible assets, and sales of immovable property, all of which are excluded from VAT. The business tax on imported services must be collected if the organizations or individuals receiving the services are within mainland China. Business tax on imported rates for entertainment activities are determined by provincial governments within a range of 5-20%; other than this, business tax rates are set at 3% or 5% on business turnover.

104. The Government is considering consolidating the business tax and VAT into a general goods and services tax to simplify China's tax structure; there is no specific timetable. Under the revised Provisional Regulations on Business Taxes, which took effect on 1 January 2009, declaration and

<sup>69</sup> Provisional Regulations on Value Added Tax; revised version entered into force on 1 January 2009.

<sup>70</sup> Capital goods such as small passenger vehicles, motorcycles, and yachts are excluded, and are subject to consumption tax.

<sup>71</sup> Central Government online information. Viewed at: [http://www.gov.cn/2010lh/content\\_1550075.htm](http://www.gov.cn/2010lh/content_1550075.htm) (in Chinese) [08/03/10].

collection of business tax have been moved, except on construction services, from the place where the services are supplied to the place where the tax payer is registered.<sup>72</sup>

*Other reform*

105. A simplified tax structure would facilitate business operation. Since 2007, China has continued with the tax reform to further unify its taxes applied to FIEs and domestic enterprises. Since 1 January 2007, the city and township land use tax, previously levied only on domestic enterprises and individuals, has been levied on all enterprises (including FIEs) and individuals using land in China. At the same time, the land use charge on FIEs and foreign individuals using land in China was removed. In addition, the vehicle and vessel usage tax, applied to domestic enterprises and individuals, and the vehicle and vessel licence tax, applied to foreign enterprises and individuals were unified into the vehicle and vessel tax, levied on domestic and foreign enterprises, individuals, and organizations. Similar measures were taken in 2008 and 2009. From 2008, the farmland occupation tax, which had been levied only on domestic enterprises, organizations, and individuals, also covers FIEs and foreign individuals. Until 2009, FIEs were subject to the urban real estate tax, while domestic enterprises paid the house property tax. On 1 January 2009, the urban real estate tax was removed; and FIEs and domestic enterprises now pay a house property tax.

106. At present, the only tax difference between FIEs and domestic enterprises is the city maintenance and construction tax, which is not levied on FIEs.

(c) Direct taxation

107. Direct taxation accounted for 26% of total tax revenue in 2009. Revenues from enterprise income tax and individual income tax are shared 60:40 between the central and local governments.

*Enterprise income tax*

108. Under China's enterprise income tax system, FIEs were subject to lower rates of tax than domestic enterprises, and benefited from various tax holidays. The Enterprise Income Tax Law, which was issued in March 2007 and entered into force in January 2008, unified enterprise income taxes for FIEs and domestic enterprises, with a transition period for tax incentives already granted to FIEs.

109. Thus, FIEs established before 16 March 2007 (when the new Law was issued), and those subject to a 15% income tax rate before 2008, paid income tax at 18% in 2008 and 20% in 2009, and will pay 22% in 2010, 24% in 2011, and the statutory of 25% in 2012. FIEs that were subject to an income tax at 24% before 2008 began to pay 25% from 2008. FIEs that were benefiting from the "two-year exemption followed by a three-year half deduction" or the "five-year exemption followed by a five-year half deduction" tax holidays, retain the tax holidays until they expire.<sup>73</sup>

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<sup>72</sup> The authorities pointed out that the revision was made because, in most cases (apart from, *inter alia*, construction services), the place where the services are provided is the same as the registration place of the tax payer. For construction services, business tax is still collected at the place where services are provided.

<sup>73</sup> If an FIE was entitled to such a tax holiday, but the tax holiday had not commenced due to accumulated losses, it would start benefiting from the tax holiday from 2008. State Council Notice (No. 39, 2007) on the Implementation of the Transitional Preferential Enterprise Income Tax Policies.

*Individual income tax*

110. China's individual income tax is payable on worldwide income for Chinese residents, and on income earned in China by non-residents. The standard threshold for payment of individual income tax was raised from Y 1,600 to Y 2,000 on 1 March 2008, with a view to reducing the tax burden for people of middle and low income; foreign expatriates receive an additional allowance of Y 2,800 per month (thus their threshold is Y 4,800 per month).

111. The progressive income tax rates on salaries and wages currently range from 5% to 45%. For individual industrial and commercial households, income from their production or business operations is taxed at rates ranging from 5% to 35%, with deductions for relevant costs and fees. A flat rate of 20% applies to other income, including royalties, interest, dividends, incidental income, income from property renting (i.e. rentals). A reduced tax rate of 10% is imposed on the dividends distributed by domestically listed Chinese companies, dividends received by foreigners residing in China are temporarily exempt from the tax.

112. On 9 October 2008, interest income from bank deposits was exempted from tax; this exemption, following the lowering of the tax rate from 20% to 5% in August 2007, was intended to increase interest income from saving deposits.

(d) Tax incentives

113. Most tax incentives are in the form of enterprise income tax rate reductions or exemptions, although they may also take the form of VAT reductions. Under the Enterprise Income Tax Law, incentives are now given to enterprises investing in less developed regions, such as western China, and for investment in activities encouraged by the Government, such as agriculture, environmental protection, renewable energy, software and integrated circuits industries, and securities investment and fund development. For example, enterprises engaging in high-tech and new technology activities pay a tax rate of 15%; if these enterprises were established in special economic zones (SEZs) or Shanghai Pudong New Area on or after 1 January 2008, they are exempt from income tax in the first two years from the year during which revenue from production and business operation is first derived, and then subject to a rate of 12.5% (i.e. half of the standard statutory rate of 25%) in the third to the fifth years.<sup>74</sup>

114. Tax incentives are also given to SMEs to facilitate their development (section (4)(iv)(d)). For example, small and medium-sized enterprises (SMEs) may benefit from, *inter alia*, lower enterprise income tax and lower VAT. Small-scale, low-profit enterprises meeting certain requirements pay enterprise income tax at a rate of 20% (instead of the statutory 25%).<sup>75</sup> Further, for small enterprises with taxable income below Y 30,000 in 2010, their taxable income is reduced by half. Small-scale tax payers, who were subject to VAT at 6% or 4%, now pay VAT at 3%.<sup>76</sup>

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<sup>74</sup> State Council Notice (No. 40 of 2007) on the Implementation of the Transitional Preferential Tax Treatment for Advanced and New Technology Enterprise Newly Established in SEZs and Shanghai Pudong New Area.

<sup>75</sup> Small-scale, low-profit enterprises are: industrial enterprises whose total assets are less than Y 30 million, with annual taxable income lower than Y 0.3 million, and with less than 100 employees; or other enterprises whose assets are less than Y 10 million, with annual taxable income lower than Y 0.3 million, and with less than 80 employees.

<sup>76</sup> The criteria for small-scale taxpayers also changed: they are now taxpayers with total sales of less than Y 0.5 million (down from Y 1 million) engaged in the production of goods or taxable services, or those with total sales of less than Y 0.8 million (down from Y 1.8 million) in wholesaling or retailing.

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

116. The Government has not undertaken any cost-benefit analysis of these tax incentives, which raises questions about their cost-effectiveness and thus China's fiscal transparency. The authorities maintain that they are gradually enhancing evaluation of tax incentives to improve their cost-effectiveness and transparency.

**(ii) Direct expenditures, industrial policies, and price "guidance" measures**

117. In 2008, total government expenditure was Y 6,259.3 billion, accounting for 20.8% of GDP. Of the total, expenditure for general public services was the biggest outlay, although expenditure for industry, commerce, and banking grew the fastest (Table III.5). China's total budget expenditure increased further in 2009, to Y 7,587.4 billion, up 21.2% from 2008. This increase mainly reflected the Y 4 trillion (13% of 2008 GDP) economic stimulus package announced in November 2008, covering the period up to 2010. Y 1.18 trillion comes from the Central Government, and the rest from, *inter alia*, local governments budgets, and investment carried out by SOEs together with investment arms affiliated with the governments, as well as bank loans. In 2009, Y 908 billion (76.9% of the Y 1.18 trillion from the Central Government budget) was already allocated for the package, which is intended to cover, *inter alia*: infrastructure investment including rail, road, and water (37.5%), reconstruction in post-earthquake areas (25%), construction of low-rent housing (10%), and rural infrastructure construction (9.25%) (Table III.6).

**Table III.5**  
**Selected government transfers, 2007-08**  
(Y billion and per cent)

	2007 <sup>a</sup>		2008		Growth rate (%)
<b>Total government expenditure</b>	<b>4,978.14</b>		<b>6,259.27</b>		<b>25.7</b>
Expenditure for general public services	851.4	(17.1%)	979.6	(15.7%)	15.1
Expenditure for education	712.2	(14.3%)	901.0	(14.4%)	26.5
Expenditure for science and technology	178.3	(3.6%)	212.9	(3.4%)	19.4
Expenditure for social safety net and employment effort	544.7	(10.9%)	680.4	(10.9%)	24.9
Expenditure for medical and health care	199.0	(4.0%)	275.7	(4.4%)	38.5
Expenditure for environment protection	99.6	(2.0%)	145.1	(2.3%)	45.7
Expenditure for urban and rural community affairs	324.5	(6.5%)	420.6	(6.7%)	29.6
Expenditure for agriculture, forestry and water conservancy	340.5	(6.8%)	454.4	(7.3%)	33.5
Expenditure for transportation	191.5	(3.8%)	235.4	(3.8%)	22.9
Expenditure for industry, commerce and banking	425.7	(8.6%)	622.6	(9.9%)	46.3
<b>Extra-budgetary expenditures</b>	<b>611.2</b>	..	..	..	..
General public services	61.2	..	..	..	..
Education	219.7	..	..	..	..
Social safety net and employment effort	25.6	..	..	..	..
Transport	97.6	..	..	..	..
Urban and rural community affairs	77.1	..	..	..	..
Other	130.1	..	..	..	..

.. Not available.

a The classification of expenditure accounts was adjusted in 2007, and is not comparable with the previous years.

Note: Figures in parenthesis show percentage of total budgetary expenditure, or percentage of total extra-budgetary expenditure.

Source: National Bureau of Statistics, *China Statistical Yearbook 2009*.

**Table III.6**  
**Y 4 trillion Stimulus Package, November 2008**

Projects	Estimated investment (Y billion)	
Important infrastructure projects, such as railways, road networks, airports, and irrigation systems	Y 1,500	(37.5%)
Reconstruction of post-earthquake areas	Y 1,000	(25%)
Construction of low-rent housing and residence renewal	Y 400	(10%)
Rural infrastructure construction, including water, electricity grid, road networks, and natural gas	Y 370	(9.25%)
Innovation and structural adjustment programmes	Y 370	(9.25%)
Energy-saving, emission-reducing, and environmental protection projects	Y 210	(5.25%)
Medical and health care, education, and cultural businesses development	Y 150	(3.75%)

Source: Central Government online information. Viewed at: [http://www.gov.cn/gzdt/2009-03/09/content\\_1254645.htm](http://www.gov.cn/gzdt/2009-03/09/content_1254645.htm) (in Chinese) [09/03/09].

118. Industrial policies remain important aspects of Government's policies to "guide" the allocation of resources. In early 2009, the Government identified ten sectors (nine manufacturing) most affected by the reduced external demand due to the global crisis.<sup>77</sup> To boost their development, sector-specific policies were issued. The major measures include: lowering the taxes levied on enterprises, by, for example, adjusting VAT rebate rates; providing preferential loans or other financial assistance to enterprises in these industries to encourage, *inter alia*, innovation. For example, Y 10 billion was allocated to the automobile industry in a three-year period to facilitate R&D activities. The Government also aims to consolidate industry structures by encouraging mergers and acquisitions. Through these measures, the Government intended to achieve 12% growth rate of its manufacturing industry in 2009: the value added of China's secondary industry (which comprises mainly manufacturing) grew by 9.5% in 2009.

119. The Government also provides "guidance" regarding some prices of: commodities and services deemed to be of great importance to the national economy and people's livelihood (such as electricity and certain medicines); scarce natural resources (processed petroleum products and natural gas); operations of natural monopolies (water supply); important public utilities (public transport); public welfare services (education fees). According to the authorities, these "guidance" prices account for 3% of all prices in the economy.<sup>78</sup> Some products and services are subject to price "guidance" at the central level, and some at the local level. At the central level, the NDRC is in charge of price "guidance" in respect of, for example, key reserve materials of the State<sup>79</sup>, natural gas, electric power, important transport (such as rail and civil aviation), and post and telecom services.<sup>80</sup>

<sup>77</sup> Nine manufacturing sectors (iron and steel, automobile, shipbuilding, petrochemical industry, textiles and clothing, light industry, non-ferrous metal, equipment manufacturing, electronics and information industry); and one services sector (logistics).

<sup>78</sup> Under the Price Law, there are government-set prices and government-guided prices. Government-set prices are fixed prices, and government-guided prices are usually set as a basic level, and a range within which prices can fluctuate. However, it is not clear to the Secretariat which commodities are subject to which type.

<sup>79</sup> For key reserves of the State, designated SOEs stockpile these commodities as required by the State, but their purchase is at market prices. When the case when these SOEs claim losses from the Ministry of Finance, they may refer to government guided prices. These settlement prices extend only to products held by the State as its reserves.

<sup>80</sup> Key reserve materials of the State are grain, cotton, sugar, silkworm cocoons, crude oil, processed oil, and chemical fertilizer. Other products subject to price controls at the central level are: state-monopolized tobacco, edible salt, civil explosive equipment, some fertilizers, some key medicines, educational materials, water-resource projects subordinated to the Central Government or constructed in more than one province, and military materials.

At the local level, the Bureau of Commodity Pricing in each province is in charge of price "guidance" concerning, *inter alia*, health-related services, and passenger transport by road.<sup>81</sup> In addition, minimum procurement prices for rice and wheat remain for main grain-producing areas (seven provinces for rice, and six provinces for wheat) (Chapter IV(2)(iii)). These prices were increased several times in 2008 and 2009, to reflect the increasing cost of grain farming.

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

120. Based on the ownership structure, enterprises can be grouped into state-owned enterprises and enterprises where the State has controlling shares (SOEs), collectively owned enterprises<sup>82</sup>, joint-stock enterprises, "domestic private" enterprises, individual businesses (sole proprietorships)<sup>83</sup>, and foreign-invested enterprises. During the reform process, in general, under the "guidance" of the Government, SOEs have been retreating from some more competitive sectors, where private enterprises were permitted to operate alongside SOEs. In particular, FIEs, whose productivity is usually higher, have been encouraged owing to their more advanced technology, or better sales channels abroad.

121. However, SOEs have been benefiting disproportionately from the Government's recent measures to boost the economy, particularly the economic stimulus. At the same time, domestic private enterprises are finding it more difficult to access credits from banks. The authorities emphasized that the Government has always supported the development of enterprises of all ownership structures equally, and has no intention of favouring SOEs through the stimulus packages.

**(a) SOEs**

122. SOEs consist of wholly state-owned enterprises, and enterprises in which the State has controlling shares (state-controlled enterprises).<sup>84</sup> Also, SOEs comprise central-level, and local-level enterprises. The State-Owned Asset Supervision and Administration Commission (SASAC) at the central level is responsible for managing government assets and reform of central-level SOEs; and SASACs at local levels are responsible for managing government assets and reform of local-level SOEs. The number of central-level non-financial SOEs has continued to fall, from 159 in 2006 to 129 in December 2009. SASAC intends to reduce the number of SOEs subject to its management to 80-100 by the end of 2010. The remaining SOEs are on average much bigger than domestic private enterprises, and larger than their foreign counterparts. The share of SOEs' output in GDP is not available to the Secretariat.

123. Recently, "guided" by the State Council's Opinions issued in December 2006, SOEs have been retreating from some of the more competitive industries, but remain concentrated in other industries with a state monopoly (according to the authorities, these are industries related to national

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<sup>81</sup> Prices of freight transport by road, and waterway transport are determined by the market. Other prices controlled by local governments are: thermal power, water resources (apart from those subject to price controls by the Central Government), medical services, education, selling prices and rents of residential apartments and homes for the elderly.

<sup>82</sup> Collectively owned enterprises usually take the form of township-village enterprises (TVEs) as most were founded by town or village governments or village-collective economic organizations. Some TVEs have been transformed into private enterprises and belong to the "non-public" sector; those that continue to be owned by town or village governments or village-collective organizations belong to the "public" sector.

<sup>83</sup> Those with self-owned means of production, are self-operated, and have self-owned output are classified as individual businesses.

<sup>84</sup> The latter refers to enterprises in which the State, or another SOE, holds more than 50% of equity; or, if the share of the equity is less than 50%, the State or another SOE has controlling influence on its management and operation.



security and overall economic development, including petroleum and coal).<sup>85</sup> The associated monopoly position arguably gives these SOEs competition advantage over private enterprises. Profits of SOEs continued to rise (they increased by 9.8% in 2009).

124. Against the background of SOEs' increasing profits, China has started collecting dividends from them.<sup>86</sup> As of 2008, resource-oriented central-level SOEs (including those in tobacco, coal, oil, power generation, and information industries) pay 10% of net profits; general industrial SOEs (including those in steel, automobile, and electronics) pay 5% of net profits; military enterprises and SOEs transformed from research institutions are exempt from paying dividends for three years, as their profits are usually low. Paying dividends would reduce the amount of retained earnings available to SOEs for financing their investments, and thus could help improve the governance of SOEs, especially as far as investment is concerned. However, although dividends are paid to the Ministry of Finance, they are grouped into a "separate budget item" earmarked for SASAC, raising a question on the efficient use of these dividends (i.e., they may be used only by other SOEs).

125. Corporatization and listing on stock exchanges have improved the corporate governance of SOEs. At end-September 2009, SOEs accounted for 58% of market capitalization in China (down from 83.1% in 2007).<sup>87</sup> SOEs have also been actively seeking listings on overseas stock markets: at end 2008, 113 SOEs were listed on the Hong Kong stock market and one in Singapore. China has been continuing with its reform to convert non-tradeable shares into tradeable shares of listed SOEs.<sup>88</sup> China Securities Regulatory Commission (CSRC), and other related agencies, such as SASAC and MOFCOM, have issued various rules to regulate the conversion. For example, specified shares of SOEs engaged in certain sectors must be reserved for the State; i.e. 51% of shares in SOEs in resource-based and high-tech industries, and 35% in agriculture and manufacturing.<sup>89</sup> In addition, there is a "lock-up" period (on average three years) for conversion, during which the shares being converted cannot be traded. Following the conversion, in June 2009, China issued a policy requiring listed SOEs to transfer 10% of their shares to China's social security fund, with another "lock-up" period (Chapter 4). The CSRC pointed out that "in theory", all shares are to be floated in 2016. These reforms, by creating more floating shares, could reduce enterprises' reliance on retained earnings and consequently SOEs' savings, which, in turn, would lead to a lower saving-investment gap (Chapter I).

126. However, despite all the reforms, SOEs still tend to have a lower cost of and better access to capital than domestic private enterprises (section (b) below).

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<sup>85</sup> In December 2006, the State Council issued the Opinion on Guidelines for Promoting the Restructuring of State-Owned Assets and SOEs, under which the Government intends to retain state ownership in "industries involving national security, major infrastructure and important mineral resources, industries supplying important public goods and services, and important backbone enterprises in 'pillar' industries and high and new technology industries". According to the authorities, SOEs have comparative advantage in these industries.

<sup>86</sup> The State Council issued the Opinions on the Pilot Programme of Budget Management of State-owned Assets in September 2007.

<sup>87</sup> OECD (2008). According to the authorities, by end October 2009, 750 of the 1,650 listed enterprises were state-owned or state-controlled enterprises.

<sup>88</sup> Listed SOEs have three different types of shares: state shares (*guojia gu*), legal person (LP) shares (*faren gu*), and public shares (*geren gu*). Before the CSRC issued the Circular on the Pilot Programme of Non-Tradeable Shares Reform of Listed Companies on 29 April 2005, only public shares were tradeable. Reform began in 2005 to convert non-tradeable shares into tradeable shares.

<sup>89</sup> SASAC of Shanghai Municipal Government online information. Viewed at: <http://www.shgzw.gov.cn/gb/gzw/gzjg/gzyw/userobject1ai35174.html> (in Chinese) [12 February 2008].

(b) Domestic private enterprises

127. Some researchers argue that the real source of China's economic development has been its domestic private enterprises<sup>90</sup>, which do not include foreign-invested enterprises.<sup>91</sup> These enterprises developed despite various entry barriers and financial constraints.

128. During the review period, the development of domestic private enterprises has been "guided" mainly by the Guidelines on Encouraging and Supporting the Development of the Non-Public Sector including Individual and Private Enterprises (also known as the State Council's 36-Clause of 2005 on the non-public sector). The 36-Clause in principle removed barriers for domestic private firms and FIEs to enter certain sectors that had been closed to them.<sup>92</sup> However, in practice, the implementation of the 36-Clause is uneven across areas, and across industries. In particular, some industries are characterized by state monopolies, such as the exclusive postal services, telecommunications, and financial services, which constitute entry barriers for domestic private enterprises.<sup>93</sup>

129. In general, domestic private enterprises are also more constrained financially than SOEs and FIEs.<sup>94</sup> China's financial system has been dominated by state-owned banks, which have traditionally favoured SOEs over domestic private enterprises. The preference is partly due to the perception that SOEs are generally larger and likely to be able to pay back loans at due date, and that large SOEs are less likely to go bankrupt because they will be bailed out by the Government (e.g. airlines recently). Moreover, proposals to establish small and medium-sized regional level banks have not been approved by financial services regulators. These banks, with the majority of their capital from domestic private enterprises, could better serve SMEs, which are mainly domestic private enterprises.<sup>95</sup>

130. In addition to these barriers and constraints, domestic private enterprises used to pay higher enterprise income tax than FIEs until the application of the Enterprise Income Tax Law in 2008 unified the different tax rates.

(c) Foreign-invested enterprises (FIEs)

131. FIEs include mainly wholly foreign-owned enterprises, as well as equity and contractual joint ventures.<sup>96</sup> Wholly foreign-owned enterprises are those in which foreign investors hold 100% of the shares; equity joint ventures are those registered as limited liability companies, with a minimum of 25% of the capital provided by foreign partner(s). The State, or SOEs, may also have shares in these

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<sup>90</sup> Huang (2008).

<sup>91</sup> Domestic private enterprises are profit-making firms whose assets belong to individuals and that employ workers. They include private joint-equity companies, private limited liability companies, partnership companies, and individually owned companies, but do not include FIEs or individual businesses (sole proprietorship).

<sup>92</sup> Since the issuance of the 36-Clause, Chinese governments at various levels have reviewed more than 1.3 million regulations, orders, and announcements, and revised or abolished more than 5,000 regulations inconsistent with the 36-Clause (All China Federation of Industry and Commerce, 2007, p. 29).

<sup>93</sup> Also, SASAC explicitly identified seven industries for state control, creating entry barriers for private enterprise (All China Federation of Industry and Commerce, 2007, p. 30).

<sup>94</sup> Poncet, Steingress, and Vandebussche (2009). It was also found that the presence of foreign capital alleviated credit constraints faced by private Chinese firms, while that of state firms crowded out domestic private investment. Thus, reforms of the state-owned sector and further liberalization of foreign capital inflow could help overcome financial constraints and boost private investment.

<sup>95</sup> All China Federation of Industry and Commerce (2007), p. 29.

<sup>96</sup> FIEs are regulated under the Law on Foreign Capital Enterprises, the Law on Chinese-Foreign Equity Joint Ventures, and the Law on Chinese-Foreign Contractual Joint Ventures.

companies. Contractual joint ventures, on the other hand, do not have a minimum capital requirement for the foreign partner(s); the parties may bear liability independently rather than as a single entity.<sup>97</sup>

132. FIEs paid lower income taxes than domestic enterprises until 2008, when the Enterprise Income Tax Law entered into force; existing tax preferences are grandfathered (section (i)(c)).

133. Labour productivity is generally higher in FIEs than SOEs or domestic private enterprises.<sup>98</sup> FIEs also account for more than half of China's international trade and in particular its processing trade. In 2009, 55.9% of total exports were by FIEs; 73.4% of all FIEs' exports were exported under the mode of processing trade. FIEs also accounted for 54.2% of total imports; of all FIE imports, 49.7% were imported under processing trade (Table AIII.6). Thus the global financial crisis and the consequent decline in external demand have significantly affected the performance of FIEs in China. Nonetheless, China remains an important destination for FDI (Chapter I).

(d) Small and medium-sized enterprises (SMEs)

134. SMEs are classified according to their scale, not their ownership.<sup>99</sup> They include both private and public companies. SMEs have provided more than 80% of urban jobs.<sup>100</sup>

135. Due partly to their small size, and partly because many are domestic private enterprises, SMEs have continuously faced more severe financial constraints than other enterprises. Thus, the Government has been supporting the development of SMEs by, *inter alia*, improving their credit conditions, providing tax incentives, and offering various grants.

136. The recent development of SMEs has been supported mainly by the Law on Promoting SMEs (effective from 2003), the State Council's 36-Clause for non-public enterprises (issued in 2005)<sup>101</sup>, and the newly issued State Council's Opinions on Further Promoting the Development of SMEs (36-Clause on SMEs).<sup>102</sup> In 2009, the Government allocated Y 5.11 billion to improve credit conditions for SMEs, of which, Y 1.6 billion was provided as credit guarantees to SMEs.<sup>103</sup> The authorities are now considering establishing a National SME Development Fund. SMEs have also been benefiting from the moderately loose monetary policy, although not as much as SOEs; bank loans to SMEs increased by 28% in the first 9 months of 2009.<sup>104</sup> The Government provides tax incentives for SMEs involving lower enterprise income tax and VAT rates (section (4)(i)(d)). In

<sup>97</sup> WTO (2006), p. 129.

<sup>98</sup> Labour productivity in FIEs is more than nine times that in the rest of the economy (Whalley and Xian, 2006).

<sup>99</sup> Under the Provisional Rules on the Standards of Medium and Small Enterprises, issued on 19 February 2003, the definition of SMEs varies according to the sector they engage in, and ranges from employing less than 2,000 persons and total assets of less than Y 400 million in the industrial sector, to employing less than 200 persons and total sales of less than Y 300 million in the wholesale sector. For details of the definition of SMEs, see WTO (2006), Table AIII.10.

<sup>100</sup> Central Government online information. Viewed at: <http://www.gov.cn/zxft/ft152/wz.htm> (in Chinese) [24.11.2009].

<sup>101</sup> Guidelines on Encouraging and Supporting the Development of the Non-Public Sector including Individual and Private Enterprises.

<sup>102</sup> Issued on 22 September 2009. Central Government online information. Viewed at: [http://www.gov.cn/zwgk/2009-09/22/content\\_1423510.htm](http://www.gov.cn/zwgk/2009-09/22/content_1423510.htm) (in Chinese) [23.11.2009].

<sup>103</sup> MIIT online information. Viewed at: <http://www.miit.gov.cn/n11293472/n11295074/n11298898/11791629.html> (in Chinese) [27/03/09].

<sup>104</sup> *China Daily*, "China's loan balance to SMEs up 28% in Jan-Sept", 28/10/09.

addition, the Government has been promoting the establishment of small and medium-sized financial institutions, as well as a credit insurance system for SMEs.<sup>105</sup>

137. China has also been developing its capital market to promote the development of SMEs. The SME Board, established in Shenzhen Stock Exchange in 2004, provides improved financing channels for SMEs. At end-October 2008, 273 SMEs were listed on the Exchange with a total market value of Y 97.3 billion. Further, in October 2009, the Growth Enterprises Board was set up in Shenzhen; also known as the ChiNext, this Board aims to attract start-up companies in novelty business mainly involving innovation activities.<sup>106</sup> At end-October 2009, 28 companies had been approved by the CSRC and were listed on the Board.

(e) Corporate governance

138. Good corporate governance is essential for the establishment of an efficient capital market, which channels domestic savings into the most productive investments. China's corporate governance regime is generally based on the Company Law, the Securities Law, the Law on Enterprise Bankruptcy, and various codes of governance for listed companies. For example, the Code of Corporate Governance for Listed Companies sets mandatory principles for corporate governance and specifies the behaviour of senior management in listed companies.<sup>107</sup>

139. In addition, the Law on Enterprise Bankruptcy, which entered into force on 1 June 2007, started to be applied to all bankruptcies including SOEs from 2009. Before 2009, a large number of SOEs bankruptcy cases were "policy-led", through which the Government obliged SOEs "with long-term losses and no possibility of recovery or with debts larger than assets" to declare bankruptcy within a certain time frame. In contrast with common practice, under "policy-led" bankruptcies, these enterprises' remaining assets (if any) were used to assist the reallocation of employees, instead of paying debts. In 2009, "policy-led bankruptcies" of SOEs were terminated, and the Law on Enterprise Bankruptcy was applied to all enterprises equally. This indicated a significant step forward in China's corporate governance system, as it strengthens substantially creditors' rights.<sup>108</sup>

(iv) **Competition and consumer protection policy**

(a) Competition policy

140. China has a variety of laws and regulations related to competition policy. A major addition during the period under review is the Anti-Monopoly Law (AML), which entered into force on 1 August 2008. Other competition-related legislation includes the Anti-Unfair Competition Law, the Price Law, the Law on Bid Invitation and Bidding or Tendering, and the Rules on Acquisitions of Domestic Enterprises by Foreign Investors.<sup>109</sup> Regulations for certain sectors, such as aviation,

<sup>105</sup> Small and medium-sized financial institutions include micro-credit institutions, township banks, and rural finance cooperatives. China has started to set up a credit insurance system for SMEs, and has more than 3,000 credit insurance institutions, covering over Y 1 trillion loans for 700,000 SMEs. There are also credit reinsurance companies for SMEs in north-east China and in Beijing and Guangdong Province.

<sup>106</sup> The SME Board is for SMEs not large enough for the main Board, and the ChiNext Board is to encourage companies' innovation activities.

<sup>107</sup> The Code was issued by the China Securities Regulation Commission (CSRC) and the State Economic and Trade Commission (SETC) on 7 January 2002.

<sup>108</sup> World Bank (2009). The previous Enterprise Bankruptcy Law (Trial) was formulated in 1986, and applied only to SOEs.

<sup>109</sup> Although the Implementing Regulations of the Anti-Monopoly Law have not been issued, various regulations have been formulated to facilitate enforcement of the Law. For example, the State Council formulated Provisions on Thresholds for Prior Notification of Concentration of Undertakings, MOFCOM issued

electricity, postal and telecommunications services, and those issued by local governments, also contain provisions on market competition. The Anti-Monopoly Law does not take precedence over other competition-related legislation.

141. The Anti-Monopoly Law entered into effect on 1 August 2008, and an Anti-Monopoly Commission of the State Council was set up, to organize, coordinate, and "guide" anti-monopoly enforcement. The State Council designated the NDRC, MOFCOM, and SAIC (State Administration of Industry and Commerce) as enforcement agencies. The NDRC supervises the enforcement of price-related monopoly behaviour; MOFCOM conducts anti-monopoly reviews of mergers and acquisitions, including M&As of domestic enterprises by foreign investors; the SAIC enforces the Anti-Unfair Competition Law on issues related to monopoly agreements, abuse of market dominance and abuse of administrative powers (excluding price-related monopolies).

142. The Anti-Monopoly Law covers all sectors of the economy and all types of enterprises, but it does not apply to alliances or concerted actions among farmers and farmers' economic organizations in producing, processing, selling, transporting, or storing agricultural products. Under Article 7 of the Law, the State protects SOEs that hold a dominant position in the economy and affect national security, or that operate with exclusive rights granted by the Government. By protecting "the legitimate business activities" of these SOEs, and by requiring them to comply with laws and regulations and not to harm consumers, Article 7 reflects a compromise between China's industrial policies and competition policy.<sup>110</sup>

143. On the other hand, the Law covers specifically three types of "monopolistic conduct": conclusion of monopoly agreements, abuse of dominant market positions, and concentration of enterprises that have (or are likely to have) the effect of eliminating or restricting competition. On monopoly agreements, the Law prohibits five types of horizontal agreements (those among competitors) and two types of vertical agreements (those among counterparties). A dominant market position is defined as one that enables an enterprise to control price, output, and conditions in a relevant market or to control the entry into this market by other enterprises.<sup>111</sup> Enterprises with a dominant market position are prohibited from, *inter alia*, selling products at unreasonably high prices or purchasing products at unreasonably low prices, and "without valid reasons", selling products at a price below cost, or tying products or imposing unreasonable trading conditions. The NDRC is to issue a regulation to define "without valid reasons" specified under the Law, and has been soliciting opinions on the draft regulation.<sup>112</sup>

144. M&As that lead to change of control or "decisive influence", and are above a certain threshold, must be notified to and obtain approval from the Anti-Monopoly Law Enforcement Authority.<sup>113</sup> The Law also specifies that, foreign acquisitions of Chinese companies, if relating to

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Rules on Notification of Concentration of Undertakings, and Rules on Review of Concentration of Undertakings, and the SAIC issued Procedural Regulations on the Investigation of Cases of Monopoly Agreements and Abuse of Market Dominant Positions, and Procedural Regulations on Abuse of Administrative Power to Eliminate or Restrict Competition.

<sup>110</sup> OECD (2009).

<sup>111</sup> Presumption of dominant market position includes: one enterprise accounting for more than half the total market share; the joint market share of two enterprises accounting for more than two thirds; the joint market share of three enterprises accounting for more than three fourth. In joint-dominance situations, if one enterprise takes less than 10% of the market share, it is considered not to have a dominant market position.

<sup>112</sup> NDRC online information. Viewed at: [http://www.ndrc.gov.cn/fjbak/t20090812\\_296055.htm](http://www.ndrc.gov.cn/fjbak/t20090812_296055.htm) (in Chinese) [23.11.2009].

<sup>113</sup> The State Council issued notification thresholds: first, if in the previous fiscal year, the combined global turnover of all participants exceeded Y 10 billion, and at least two had the earnings from China above Y 400 million each; second, if in the previous fiscal year, the combined turnover from China of all participants

national security, must go through a "national security review" in addition to the competition review. However, the Law does not define "national security", nor does it specify which government agency is to conduct "national security reviews". The authorities maintained that, the Anti-Monopoly Law is not the legislation governing national security, and this provision is only for general information.

145. In practice, mergers and acquisitions, including acquisitions by foreign enterprises of domestic companies, are regulated by MOFCOM.<sup>114</sup> MOFCOM approval is required for any acquisition transferring control of a domestic company relating to key industries with an actual or potential effect on national economic security, or of a company with a famous trade mark or "venerable" company registration. Exemptions include transactions proved able to improve competition or where the acquisition target is making a loss and the takeover would preserve jobs, the takeover would improve international competitiveness through transfer of technology and management, or the transaction would improve environmental conditions.<sup>115</sup> Between August 2008 and end-September 2009, MOFCOM received 87 notifications on M&As, and 59 were closed: 4 were approved with conditions, 1 rejected, and the rest obtained unconditional approval.<sup>116</sup> The AML also allows private actions: where enterprises or individuals consider their rights related to competition are violated by monopolistic behaviour, including some "administrative monopolies", they may raise the issue in peoples' courts.

146. The Anti-Monopoly Law prohibits "administrative monopolies" where, *inter alia*, administrative departments including local governments adopt measures to stop or discourage competition from other parts of the country.<sup>117</sup> Administrative measures are to be adopted as sanctions against such conduct. If an organization or agency abuses its administrative power to restrict competition, its supervisory body is responsible for correcting the problem. The Anti-Monopoly Enforcement Authority is authorized to recommend actions to the supervisory body. However, as administrative monopolies are complex, it remains to be seen whether the Government is able to prohibit them; this would depend not only on the efficiency of the Anti-Monopoly Law Enforcement Authority, but also on enforcement at the local level.

147. China has also been making efforts to achieve a balance between protecting intellectual property rights and encouraging competition. This was reflected in Article 55 of the Anti-Monopoly Law, on the abuse of intellectual property rights to eliminate or restrict competition. However, the Law does not provide detailed descriptions of such illegal behaviour, nor any sanction measures. According to the authorities, there have been no such cases so far.

148. The Anti-Monopoly Law applies not only to monopolistic conduct in China, but also to activities outside the territory of China that have "eliminative or restrictive effects" on competition in

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exceeded Y 2 billion, and at least two had the earnings from China above Y 400 million each. Regulation on Notification Thresholds for Concentrations of Undertakings. State Council Regulation No. 529. Viewed at: [http://www.gov.cn/zwgc/2008-08/04/content\\_1063769.htm](http://www.gov.cn/zwgc/2008-08/04/content_1063769.htm) [23/11/09].

<sup>114</sup> The Rules on Acquisitions of Domestic Enterprises by Foreign Investors were issued jointly by CSRC, MOFCOM, SAFE, SAIC, SASAC, and SAT, and entered into force on 8 September 2006.

<sup>115</sup> OECD (2009).

<sup>116</sup> The application of the Anti-Monopoly Law to foreign acquisitions of domestic enterprises has raised some concern. For example, MOFCOM's rulings with conditional approval and rejection are reportedly opaque, and need to be more fully explained.

<sup>117</sup> Administrative monopolies might be in the form of: designating commodities providers; obstructing the free flow of goods among different regions by, *inter alia*, setting different prices or standards for products from other regions, imposing different technical or inspection criteria, subjecting them to special licence requirements, or hindering trade through checkpoints; excluding or restricting non-local operators from participating in local bidding activities; excluding or restricting non-local operators from investing or setting up branches; and setting out regulations related to the elimination and restriction of competition.

China's domestic market. This extra-territoriality is to be achieved mainly through international cooperation on competition policy.<sup>118</sup>

(b) Consumer protection

149. The main legislation on consumer protection includes the Law on the Protection of Consumer Rights and Interests of 1994, the Product Quality Law, and the Anti-Unfair Competition Law.<sup>119</sup> Major enforcement agencies include the SAIC (consumer protection), the Customs (enforcement at the border), and the AQSIQ (quality control).

150. In particular, the AQSIQ is in charge of quality inspection of products. However, certain enterprises are exempted from quality inspection. The exemption system began in 2000 to facilitate the free flow of goods among different provinces because some local governments were using administrative measures to obstruct the free flow, by imposing different technical or inspection criteria for products originated in other regions. Thus, in 2000, the AQSIQ issued its Administration Measures on Products Exempted from Quality Inspection and Examination, which was revised in 2001. Under the exemption system, "qualified" enterprises could apply to local level quality inspection bureau, which forwarded the application documents to the AQSIQ. Approval was granted by AQSIQ and was valid for three years, with possibility of renewal. As some enterprises (for example, Sanlu) abused the exemption system, it was suspended in September 2008 after the melamine case; food products no longer qualify for inspection exemption.

(v) Intellectual property rights

151. China has become increasingly aware of the importance of IPR protection in facilitating innovation in the economy, and has been strengthening the administration of all main categories of IPR. For much of the past decade, China had double-digit annual growth in its use of the PCT system. Other areas of IP, such as trademarks, had similar growth levels, and the proportion of domestic use of the IP system is among the highest in the world. Such an increase in innovation can be expected over time to increase public awareness of the need to protect IPRs and to make effective use of the IP system as a tool for economic growth. In addition, better protected IPR could encourage technology transfers from those FIEs with more advanced technology. China has identified building an innovative country as a national development strategy. When, in June 2008, the State Council issued the Outline of the National Intellectual Property Strategy, it sought to enhance China's capability of creating, utilizing, managing and protecting intellectual property. The Outline identifies the strategic goal of China becoming, by 2020, "a country with a comparatively high level in terms of the creation, utilization, protection and administration of IPRs". In particular, over the next five years, China aims to promote the level of domestic applications of IPRs, increase the utilization of IPR-rich products, improve IPR protection, and promote the awareness of IPRs in the society. The authorities

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<sup>118</sup> China has participated in competition-policy-related activities of APEC, the OECD, UNCTAD, and the WTO. Bilaterally, SAIC and MOFCOM have signed cooperation agreements. China also engages in exchanges and cooperation with competition authorities of the European Union, Japan, Republic of Korea, and the United States. These include the China-EU Competition Policy Dialogue, the China-EU Workshop on Practical Issues for Merger Review, the China-Japan Economic Law and Enterprise Law Improvement Project, and Anti-Monopoly Seminars with the American Bar Association and the USTDA.

<sup>119</sup> Other laws and regulations concerning consumer protection include the Agricultural Products Quality Safety Law, which stipulates the requirements for agricultural products; the Advertisement Law, which prohibits the publication of false advertisement; and the Trade Mark Law, which prohibits the fraudulent use of trade marks.

consider the issuance of the Outline as a landmark in China's history of IPR development and protection.<sup>120</sup>

152. China has been progressively improving and updating its legislative framework on IPR protection. It formulated and promulgated major components of IPR related legislation, such as the Trademark Law, the Patent Law, and the Copyright Law, in the 1970s and 1980s. Since then, China has been revising its legislation in accordance with its emerging needs. For example, the Regulations on the Protection of the Right of Communication through Information Network (formulated in 2006) clarified the scope of copyright protection in the digital environment under the Copyright Law. Also, the third revision of the Patent Law was completed in December 2008, responding to emerging policy needs. China is also preparing to revise the Trademark Law, the Copyright Law, and the Anti-Unfair Competition Law.

153. China has also been intensifying the enforcement of IPR protection, for which it has a double-track system: administrative actions (consisting of mediation by the authorities), and judicial measures (including civil actions and criminal prosecutions through the courts) (Box III.2 and Table III.7). Regarding criminal penalties, the Supreme People's Court and the Supreme People's Procuratorate promulgated two judicial interpretations on the application of criminal law in IP Cases in 2004 and 2007, respectively. Since then, the number of intellectual property-related criminal cases has increased considerably. In addition, Chinese governments at different levels conduct special operations such as campaigns, targeting on specific areas of IPR protection, to increase the public awareness of IPR protection.

154. Supervision and coordination of IPR protection have been enhanced since 2006, through, *inter alia*, the annual IPR Protection Action Plans. China also set up reporting and complaint centres in 50 large and medium-sized cities, opened a hotline, "12312", and online reporting and complaint windows. In addition, China participates in IPR-related activities in APEC, WIPO, and the WTO, and is a member of various multilateral IPR conventions (Table AIII.7).<sup>121</sup> China has set up IPR working groups and information-exchange mechanisms with various countries and regions to enhance IPR protection.

(a) Patents

155. The State Intellectual Property Office (SIPO) under the State Council is in charge of patent administration nationwide. The State Patent Office under SIPO is in charge of receiving patent applications and granting patents, while local IPR administrative offices are responsible for patent disputes.

156. Patent rights (for inventions, utility models, and industrial designs) are protected by the Patent Law, its Implementing Regulations, and rules promulgated by SIPO. Patent rights for inventions are granted for 20 years from the date of filing, and 10 years from filing for utility models and industrial designs.

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<sup>120</sup> To facilitate the implementation of the Outline, in October 2008 the State Council approved the establishment of an inter-ministerial meeting mechanism involving 28 ministries (including MOFCOM), which coordinates the implementation of national IPR strategy.

<sup>121</sup> From October 2008, the WIPO Copyright Treaty, and the Performance and Phonographs Treaty, apply also to the Hong Kong SAR.



**Box III.2: IPR enforcement**

Protecting IPRs through administrative actions is an important feature of enforcement in China. Various authorities are involved: the SIPO for patents and layout designs of integrated circuits; the State Trademark Office for trade marks; the National Copyright Administration for copyright; the State Drug Administration for protected medicines; MOFCOM for agriculture-related chemicals; and the Ministry of Agriculture for new plant varieties. Some IPRs are enforced by several agencies: GIs are regulated by the State Trademark Office, AQSIQ, and the Ministry of Agriculture.

These agencies can begin administrative actions on the request of the IP right holder, a third party, or on their own initiative. Depending on the investigation results, the administrative authority conducts mediation among the parties. The administrative authority can impose fines on the infringing party, and/or confiscate/destroy the infringing goods or copies, and materials, tools, or devices used mainly for the infringement.

If mediation does not produce satisfactory results, the administrative authority may refer the case to the people's court. Criminal remedies include monetary fines based on either the value or volume of the counterfeited goods or both. Criminal prosecutions may be taken in certain cases in accordance with the Criminal Law. The public security body is in charge of carrying out criminal investigations concerning IPR infringement.

The number of cases settled through administrative actions remains high, although the number of cases dealt with by courts has increased faster; 24,406 first instance civil IPR cases were accepted by courts in 2008, and 23,518 were concluded, up by 36.5% and 35.2%, respectively (Table III.7).

Enforcing intellectual property rights at the border is the responsibility of Customs, which seizes imports and exports of goods infringing patents, trade marks, and copyright and related rights (ex officio). The process for Customs to protect IPRs at the border depends on whether the IPR has been filed or recorded at Customs. The number of cases handled by Customs has grown rapidly, from 2,475 cases in 2006 to 11,135 cases in 2008 (Table III.7).

Furthermore, although the TRIPS Agreement does not oblige Members to apply border measures in cases of the exportation of counterfeit trademark or pirated copyright goods, China has paid special attention to the intellectual property protection of exports. In this regard, China has cooperated with the United States, the EU, as well as with other Members, to strengthen enforcement regulations on counterfeit and pirated exports, improve cooperation with foreign customs, and educate domestic manufacturers and exporters of intellectual property protection.

At its meeting on 20 March 2009, the Dispute Settlement Body adopted a Panel report on *China - Measures Affecting the Protection and Enforcement of Intellectual Property Rights* (WT/DS362). On 15 April 2009, China informed the DSB of its intention to implement the recommendations and rulings of the DSB in connection with this matter. The dispute concerned measures relating to enforcement of IPRs, including: the Regulations of Customs Protection of Intellectual Property Rights, and the Implementing Measures of Customs for the Regulations of the People's Republic of China on Customs Protection of Intellectual Property Rights.

Following a Decision of the Standing Committee of the Eleventh National People's Congress on Amending the Copyright Law, adopted on 26 February 2010, China recently reported to the DSB that it has implemented the recommendations and rulings of the DSB with respect to the Copyright Law. On 17 March 2010, the State Council adopted the decision to revise the Regulations for Customs Protection of Intellectual Property Rights.

*Source:* WTO Secretariat.

**Table III.7**  
**Intellectual property enforcement, 2006-08**

	2006	2007	2008
<b>Intellectual property cases dealt with by administrative actions</b>			
<b>Patents</b>			
Number of disputes	1,270	1,013	1,126
Number concluded	973	749	868
<b>Copyright</b>			
Number of disputes/administrative penalties	10,559	9,816	9,032
Number concluded	10,344	.. <sup>a</sup>	.. <sup>a</sup>
Imposition of fines (Y million)	7.6	19.1	14.2
Cases transferred to judicial agencies	235	268	238
Business inspected	..	548,646	782,670
Illegal operation units banned	..	13,170	36,601
Underground den detected	..	1,224	694
<b>Trade marks</b>			
Number of disputes	50,534	50,318	56,634
Trade mark infringements	41,214	42,314	47,045
Other	9,320	8,004	9,589
Cases transferred to judicial agencies	252	229	137
Value of fine (Y million)	398	417.6	467.4
<b>IPR cases handled by Customs at the border</b>	2,475	7,456	11,135
Value (US\$ million)	27.2	64.5	43.2
<b>Intellectual property cases dealt with by courts</b>			
First instance civil IPR cases accepted	14,219	17,877	24,406
First instance civil IPR cases closed	14,056	17,395	23,518
Patent cases accepted	3,196	4,041	4,047
Patent cases closed	3,227	3,847	4,132
Trademark cases accepted	..	3,855	6,233
Trademark cases closed	..	3,617	6,068
Copyright cases accepted	5,719	7,263	10,951
Copyright cases closed	5,751	7,226	10,255
Technical contract cases accepted	681	669	623
Technical contract cases closed	668	649	636
Unfair competition cases accepted	1,256	1,204	1,185
Unfair competition cases closed	1,188	1,230	1,210
Other IPR cases accepted	846	727	1,340
Other IPR cases closed	844	705	1,217
Second instance civil IPR cases accepted	2,686	2,862	4,759
Second instance civil IPR cases closed	2,652	2,870	4,699

.. Not available.

a The Chinese authorities changed their statistical methods in 2007 so the number of cases concluded regarding copyright is no longer available.

Source: Data provided by the authorities.

157. The Patent Law was first implemented in 1985, and has been revised three times; the last revision was completed in 2008 and the revised version entered into effect on 1 October 2009. Under the revised Law, penalties now include the patent owner's expenditure in protecting the patent; and

finances, as well as legal compensation, have been increased for patent counterfeit and infringement cases.<sup>122</sup> Thresholds for granting patents are changed from "relative novelty" to "absolute novelty": a patent is granted only if the invention, utility model, or industrial design has not been publicized anywhere in the world.<sup>123</sup> Further, the revision explicitly allows parallel imports regarding patents.<sup>124</sup>

158. The revision also includes further grounds on which a compulsory licence may be issued. Under the previous Patent Law, compulsory licences could be granted in the event of, *inter alia*, "national emergency", or "any extraordinary state of affairs occurs", or "in the public interest".<sup>125</sup> The revised Law further enables the grant of compulsory licences in certain circumstances for patented pharmaceutical products. This amendment gives effect to the WTO General Council Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health and subsequent Decision on the Amendment of the TRIPS Agreement in providing for compulsory licensing to enable third parties to manufacture patented drugs for export to recipients under the WTO "paragraph 6" mechanism.

159. Moreover, it allows for a compulsory licence if the patent owner, without justification, has failed to "sufficiently" exploit patent rights for three years or uses the rights in a manner that eliminates or restricts competition. According to the authorities, this test of sufficiency of use will be explained in the implementing regulation (to-be-promulgated), and the test of "without justification" is provided in the Paris Convention. China has not granted any compulsory licences since the issuance of the Patent Law.

160. The revised Patent Law also requires patent applicants to disclose the direct and original source of genetic resources when the completion of an invention depends upon such genetic resources<sup>126</sup>, a measure implemented in the light of the Convention on Biological Diversity. For inventions depending upon genetic resources the access or use of which is against law and/or administrative regulations, the invention should not be granted patent rights.<sup>127</sup>

161. During the period under review, patent applications and grants continued to increase rapidly. In 2008, there were 828,328 applications, up 19.3% from 2007: domestic applications increased by 22.2%, and foreign applications by 3.5%. Most foreign applications were for inventions (85.7%), while domestic applications were mostly for industrial designs (42%) and utility models (31%). In the same year, 411,982 patents were granted, an increase of 17% from 2007 (Table AIII.8).

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<sup>122</sup> For patent counterfeit, fines are increased from three times the illegal earnings to four times; for cases with no illegal earnings, fines are increased from Y 50,000 to Y 200,000. In the case of patent infringement, if neither the loss of the patent owner, nor the gains of the infringer, nor the licence fee of the patent can be fixed, the People's Court can order the infringer person to compensate between Y 10,000 and Y 1 million.

<sup>123</sup> The previous Patent Law specified that if any invention or utility model had not been published anywhere (in or outside China), nor been used in public or known by public anywhere, it could be granted a patent right; any industrial design, if not published in or out of China, nor used publicly within China, could be granted a patent right.

<sup>124</sup> See Article 69 of the revised Patent Law. The previous Law stipulates that, without the authorization of the right holder, no entity or individual may exploit, including import, the patent; that is, parallel import regarding patent was prohibited.

<sup>125</sup> The previous Patent Law also stipulated that compulsory licences could be granted in other circumstances. For example, under Article 48, any entity qualified to use a patent and who had requested but not obtained permission to use it from the patent holder within a reasonable period of time, could apply for a compulsory licence.

<sup>126</sup> See Article 26 of the revised Patent Law.

<sup>127</sup> See Article 5 of the revised Patent Law.

(b) Trade marks

162. The State Trademark Office, under the State Administration of Industry and Commerce (SAIC), is in charge of the registration and administration of trade marks. Local enforcement authorities are responsible for administration at the local level.

163. Trade marks are protected under the Trademark Law, its Implementation Regulations, and various rules issued by the SAIC. The Trademark Law 1982 is being revised for the third time; the revision is to shorten the examination period and enhance trade mark protection. Trade marks are protected for ten years, renewable for ten years, indefinitely. Trade marks must be registered with the Trademark Office to be protected under the Trademark Law. Foreign applicants must file applications in accordance with any agreements concluded between their country of origin and China, or any international treaty to which both are parties, or on the basis of reciprocity. Trade marks may be registered through an agent recognized or designated by the SAIC.

164. In 2008, for the first time, the number of trade marks reviewed was higher than the number of applications, reflecting faster registration.<sup>128</sup> The authorities noted that trade mark registration now takes 30 months down from around 36 months. If the Trademark Office refuses registration, appeal may be made to the Trademark Review and Adjudication Board, or further to a people's court.

165. Parallel imports are still not addressed in the legislation on trade marks, and it is not clear to the Secretariat whether they are prohibited/allowed.

(c) Copyright and related rights

166. The National Copyright Administration of China under the State Council administers copyright on a national scale. Local copyright registration and administration is carried out by local copyright administration offices.

167. Protection is granted under the Copyright Law, its Implementing Rules, and accompanying regulations.<sup>129</sup> Protection for cinematographic and photographic works is for 50 years, and typographical designs for 10 years.<sup>130</sup> Protection for computer software is granted from the date on which its development was completed, and the term of protection varies.<sup>131</sup> The National Copyright Administration has been speeding up registration for computer software. In 2008, 49,087 items of computer software were registered, an increase of 91.25% from 2007.<sup>132</sup>

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<sup>128</sup> In 2007, there were 708,000 trade mark applications, and 405,000 were reviewed; in 2008, there were 698,000 applications, and 750,000 were reviewed (SIPO online information. Viewed at: [http://www.sipo.gov.cn/sipo2008/zwgs/zscqbbs/200904/t20090427\\_457166.html](http://www.sipo.gov.cn/sipo2008/zwgs/zscqbbs/200904/t20090427_457166.html) [08/05/09]).

<sup>129</sup> These include, *inter alia*, the Regulations for the Protection of Computer Software, and the Regulation on the Collective Administration of Copyright, and the Regulations on Protection of the Right of Communication through Information Network.

<sup>130</sup> Article 21 of the Copyright Law specifies that cinematographic or photographic works are protected for 50 years after first publication; however, the work is not protected under this Law if it is not published within 50 years of completion of its creation.

<sup>131</sup> Software copyright exists from the date on which its development is completed. For a natural person, protection is for the lifetime of the person plus 50 years. For software developed jointly by two or more persons, protection expires at the end of the 50<sup>th</sup> year after the death of the last surviving developer. Copyright belonging to a legal entity or other body is protected for 50 years from first publication; however, if it has not been published within 50 years of its development, it is not protected.

<sup>132</sup> SIPO online information: <http://www.sipo.gov.cn/sipo2008/zwgs/zscqbbs/200904/t20090427457166.html> (in Chinese) [08/05/09].

168. Parallel imports are not covered in the copyright legislation, and the authorities maintain they are not prohibited.

(d) Geographical indications

169. Geographical indications (GIs) are currently regulated by: the State Trademark Office, the AQSIQ, and the Ministry of Agriculture. Apparently, a law on geographical indication is to be issued in 2010.

170. From 2003, GIs can be registered as collective marks or certification marks with the State Trademark Office under the same procedures as for trade marks. From 2008, the Trademark Office accelerated its examination of applications for protection of GIs: from 1994 to 2007, the Trademark Office approved 301 GIs, while in 2008 and the first half of 2009, 321 were approved.<sup>133</sup> Protection of GIs registered with the State Trademark Office is the same as for other trade marks, i.e., ten-year protection, renewable for ten years, indefinitely.

171. From 2005, GIs can also be registered with the AQSIQ. By the end of September 2009, 932 geographical indications had been approved by the AQSIQ. Once registered with the AQSIQ, these GIs are protected permanently.

172. From February 2008, GIs for agricultural products may also be registered with the Ministry of Agriculture. Agricultural products' GIs from foreign countries must be registered in China to be protected. At end-October 2009, 185 GIs had been approved by the Ministry of Agriculture. Once registered, these GIs are protected permanently.

(e) Other IPRs

173. Since the previous review of China, there has been no significant change to the legislation protecting other IPRs, including layout-designs of integrated circuits, plant varieties, and undisclosed information or trade secrets.

174. Layout-designs of integrated circuits are registered with and granted by SIPO. They are protected for 10 years from the date of filing or the date of first commercial exploitation anywhere in the world, whichever expires earlier; the maximum duration of protection is 15 years from the date of creation. In special circumstances (such as national emergencies), or to remedy unfair competition practices, a "non-voluntary" licence can be issued to exploit a layout design.<sup>134</sup> So far, no "non-voluntary" licences have been issued.

175. Plant varieties are protected for 20 years from the date of authorization of vines, forest trees, and ornamental trees, and 15 years for other plants. Applications for the protection of new plant varieties are made to the Ministry of Agriculture or the State Forestry Administration. Compulsory licences may be granted by the approval and examination authority for exploitation of the protected plant variety where it is in the national or public interest. No such compulsory licences have been granted.

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<sup>133</sup> SIPO online information: [http://www.sipo.gov.cn/sipo2008/zwgs/zscqbps/200904/t20090427\\_457166.html](http://www.sipo.gov.cn/sipo2008/zwgs/zscqbps/200904/t20090427_457166.html) (in Chinese) [08/05/09].

<sup>134</sup> Special circumstances refer also to: any extraordinary state of affairs; for the purposes of public interest; or determination by the competent authority that there is a need to redress anti-competitive behaviour resulting from the protection.

176. Undisclosed information and trade secrets are protected by, *inter alia*, the Criminal Law, the Anti-Unfair Competition Law, the Labour Law, and regulations issued in accordance with these laws. The SAIC is in charge of protecting trade secrets, while the public security agency is responsible for criminal investigation in cases involving severe damage or criminal activity related to undisclosed information or trade secrets. According to the Implementation of the Law of Drug Control, China protects test data and other data that are self-obtained, undisclosed, and submitted by manufacturers or sellers to obtain an approval for manufacturing or selling a drug that contains new chemical entities. No one should use such undisclosed test data and other data for improper commercial purpose. Within six years from the date the manufacturer or seller obtains the approval for manufacturing or selling the drug, the drug supervision and administrative authorities should not grant another approval to others who apply for approval using the same data.

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## IV. TRADE POLICIES BY SECTOR

### (1) INTRODUCTION

1. Since the previous Trade Policy Review of China, some progress has been made in trade-related liberalization, especially in services, including financial services, telecommunications, and tourism. China has been undertaking structural reform of its economy, and considers its trade and investment regime as an integral part of its ongoing structural reform strategy. The reform aims to: reduce reliance on heavily export-oriented (and capital-intensive) manufacturing, some sectors of which tend to be over-invested due to state-owned banks' tendency to favour large SOEs[0]; increase productivity in agriculture; and expand its services sector by, *inter alia*, the reduction, if not elimination, of obstacles to trade in services.

2. The outbreak of the global financial crisis in late 2008 also negatively affected incomes of China's farming population. As a result, the gap between rural and urban living standards has tended to increase since 2008. Rebalancing of income distribution between urban and rural areas is also one of China's main policy objectives. The Government seeks to achieve "coordinated and balanced development" between regions by, *inter alia*, public spending on rural education, health, pensions, and a "minimum livelihood guarantee", as well as tax concessions in and transfer payments to the less developed regions. Nonetheless, labour productivity of agriculture, which is an important sector in rural economies, decreased slightly in 2007 and remains about one fifth of the level in other sectors; there is also a considerable surplus of labour in the sector; jobs need to be found elsewhere in the economy. China's average MFN tariff on agricultural products remained largely unchanged during 2007-09. Tariff rate quotas are applied to some cereals, sugar, chemical fertilizers, and wool and cotton. China continues to use state trading to manage trade of some products. The domestic prices of some products are subject to "government-guided prices". The Government also maintains minimum procurement prices on rice and wheat from major production areas, mainly to compensate farmers in the event of declines in market prices below certain thresholds. As long as this protection remains in place, it may prove difficult for the Government to succeed in raising total factor productivity in agriculture.

3. China's energy sector continues to be characterized by a high level of state ownership, regulation, and limited competition. Energy security remains at the core of China's energy strategy; another major policy goal includes reducing energy intensity and thus protect the environment. China aims to reduce carbon emissions per unit of GDP between 40% and 45% from their level in 2005. Despite low tariffs, trade restrictions (both import and export) remain on energy products. Imports often require state trading and import volumes of crude and processed oil by non state-trading enterprises are limited. To improve coordination across industries and ministries, the Government restructured the regulatory framework by setting up a National Energy Administration (NEA) in 2008; however, it remains unclear how much autonomy the NEA is to have from the National Development and Reform Commission (NDRC). The Government also began its pricing reform on energy and resource products so that prices can reflect the market demand and supply, the scarcity of resources, and the cost of environmental damage.

4. Manufacturing has traditionally had a greater share in trade and investment than have agriculture and services. The Government continues to "guide" the allocation of capital and resources in the economy, including the manufacturing sector. Export taxes and VAT rebate rates on manufacturing products continue to be adjusted from time to time. Sector-specific industrial policies were issued at the beginning of 2009 to facilitate the development of ten sectors; nine were manufacturing and one "logistics", and had been affected strongly by the global financial crisis.

5. The authorities maintain that China's liberalization of services has been implemented ahead of dates envisaged in its accession commitments. While the Government's intention is to open the services sector further to private and foreign participation as a means of boosting growth and providing alternative employment to agriculture, the pace of liberalization has been slower than that for manufacturing. As a result, some services sectors are still subject to a high degree of state control and lack of competition.

6. While financial reforms continue, China's capital market remains heavily dependent on loans provided by state-owned banks, which have lent mainly to SOEs. Lack of access to external financing through the capital market, particularly for small domestic private companies, continues to result in these companies relying heavily on retained earnings (or funds raised from family and friends). Stringent qualification requirements still apply to foreign-funded banks; these include comparatively high minimum asset requirements on sole or controlling shareholders and high minimum paid-in capital amounts, restrictions on the supply of credit-card services, and restrictions on the business scope of foreign banks branches. Since China's previous Review in 2008, the reform to convert the Agricultural Bank into a shareholding bank has made progress. There have been no significant changes to requirements concerning the establishment and operation of foreign insurance companies. The stock market in China continued to develop during the period under review, and the process of converting shares of SOEs to be traded in the market has progressed. Restrictions on foreign investment in financial services remained largely unchanged.

7. Since 2008, China has lowered the minimum registered capital requirement in telecommunications. It has also eliminated the approval requirement for domestic companies to be listed abroad. Limitations on foreign participation still exist in telecommunications, maritime and air transport, legal, accounting, tourism, and postal services.

## **(2) AGRICULTURE**

### **(i) Features and market developments**

8. China is the world's top producer of agricultural products by value, with total production of about Y 4,078 billion (US\$536 billion). Despite rising value of production, the contribution of agriculture to GDP continued to decline, falling from 11.1% in 2006 to 10.7% in 2008 and 10.6% in 2009 because of even more rapid growth in other sectors of the economy. At the same time; agriculture's share of employment, which had increased from 39.9% in 2006 to 40.8% in 2007, decreased to 39.6% in 2008.<sup>1</sup> As a result, labour productivity in agriculture remained largely unchanged between 2006 and 2008 at about one fifth of the level in the rest of the economy, with the result that average rural incomes fell further behind the urban average, thus contributing to a widening gap between rural and urban living standards.<sup>2</sup> Low labour productivity in agriculture reflects, *inter alia*, its high labour intensity, low average size of farms, and the lack of mechanization. The Government has been implementing agricultural reform to improve farmers' welfare and mitigate rural-urban disparities, and more recently to stimulate domestic demand in the face of the global economic slowdown since late 2008.

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<sup>1</sup> Data include employment in forestry and fishing.

<sup>2</sup> In 2007, per capita urban household income was Y 9,997, while rural household income was Y 4,140, and in 2008, per capita urban household income was Y 15,781, while rural household income was Y 4,761. This trend apparently continued in early 2009 (BBC News online. Viewed at: <http://news.bbc.co.uk/2/hi/7833779.stm> [26.10.2009]).



9. China became a net importer of agricultural products in 2004 and international trade has continued to grow. Exports increased by 8.7% and imports by 32.8% in 2008<sup>3</sup>; however, agricultural products accounted for only 2.5% of total goods exports and 4.4% of imports. China's top market for agricultural exports continues to be Japan, which accounted for 18.8% of total agricultural exports in 2008 (26.3% in 2006).<sup>4</sup> In 2008, the main imports were soybeans from the United States and palm oil from Malaysia.<sup>5</sup>

## (ii) Policy objectives and administration

10. The Government's key objectives in the agriculture sector have remained those announced in the Eleventh Five-Year Plan<sup>6</sup>, such as developing agriculture through improving overall agricultural production, promoting restructuring, and improving infrastructure and services, as well as the traditional objectives of attaining food security, and of maintaining stable domestic production to protect farmers' interests. At least 16 institutions are in charge of agriculture-related issues in China, and the main laws and regulations related to agriculture have remained unchanged since 2008.

11. The OECD has estimated that the Producer Subsidy Estimate (PSE) in China was about 9% of the value of gross farm receipts in 2007, down from 11% in 2006, but considerably higher than in 1995-97 when it averaged 3%.<sup>7</sup> Support to specific commodities (the Single Commodity Transfer or SCT) made up about 32% of the total PSE and varied widely from one commodity to another. Support was particularly high for: cotton (at 43% of farm receipts); sugar (at 35%); and maize (at 22%).<sup>8</sup> All product-specific support was provided through market price support. The total value of support for production is higher because the SCT figures do not include support generally available to agriculture, such as input subsidies.<sup>9</sup>

12. Nonetheless, the policy tools used to achieve these objectives are not always consistent and, in some cases, may be in conflict with each other. One example is the use of export restrictions to limit the rise in domestic prices resulting from higher international prices. This also has a negative impact on farmers' incomes, while direct payments, market price support, and input subsidies are provided concurrently. Furthermore, input subsidies, which include fertilizer subsidies, encourage the use of fertilizers that can have harmful environmental effects. Another concern with China's agriculture policies is the emphasis on market price support and input subsidies, which are not the most efficient mechanisms available, as a large part of the benefits is captured by suppliers of farm inputs or absorbed through higher resource costs; these policies are more production and trade-distorting than alternative policies.<sup>10</sup>

13. One major issue facing agriculture in China is structural adjustment. The average size of farm holdings is relatively small, at 0.6 ha. Improving productivity would require bigger farms; although structural reform is mentioned in China's agriculture policy, the policy instruments used do

<sup>3</sup> According to China Customs Statistics, exports of agricultural products decreased 3.3% and imports decreased 11.9%.

<sup>4</sup> UNSD Comtrade database (SITC Rev.3).

<sup>5</sup> In 2008, China imported US\$21.8 billion of soybeans, of which US\$8.4 billion was from the United States; and US\$5.2 billion of palm oil, of which US\$3.5 billion was from Malaysia.

<sup>6</sup> See WTO (2008).

<sup>7</sup> The average PSE for OECD countries for 2007 was 22% and ranged from 1% in New Zealand to 65% in Korea (OECD, 2009b).

<sup>8</sup> OECD (2009a).

<sup>9</sup> Anderson (2009) notes that the trend shown in the OECD's support estimates is part of a long-term regional trend observed in several Asian countries to reduce and remove disincentives to agriculture production and replace them with other policies that provide a net transfer of resources to producers (Anderson, 2009).

<sup>10</sup> OECD (2002).

not address it directly. Increasing farm size, which is happening slowly, can be a delicate social and economic issue, as it requires fewer farmers.

**(iii) Policy instruments**

**(a) Border measures**

*Measures affecting imports*

14. The average applied MFN tariff on agricultural products (WTO definition) in 2009 was at 15.2%, largely unchanged since 2007; the authorities consider that China's tariffs on agriculture, which have been reduced since its accession to the WTO, are already sufficiently low.<sup>11</sup> Protection varies considerably from one product to another, with higher-than-average tariffs on, *inter alia*, some cereals (65%-40%), sugar (50%), tobacco (57%), and some beverages (65%-42.3%). Imports of agricultural products are subject to lower VAT (13%) than other products (17% - general VAT rate), and agricultural products produced and sold directly by small-scale farmers are exempt from VAT (on grounds of administrative simplicity).

15. In response to high prices or to balance domestic supply and demand for foodstuffs, tariffs are sometimes reduced temporarily. During 2008, in response to higher international prices and supply problems following the earthquake in Sichuan, import tariffs for several food products were reduced temporarily.<sup>12</sup>

16. During the term of the Eleventh Five Year Plan (i.e. 2006-10), seeds (seedlings), fish fries and seed sources of wild animals and plants for breeding, within certain quantities, are exempted from the VAT; this applies equally to imports and domestically produced goods. The reason for the adoption of this exemption was not clear to the Secretariat; presumably, it is part of government policy to provide higher quality breeding and propagation material to producers.

17. In 2009, tariff-rate quotas (TRQs) applied to 45 tariff lines at the HS eight-digit level on wheat, maize, rice, sugar, chemical fertilizer, wool and wool top, and cotton at the eight-digit level (down from 55 lines in 2005).<sup>13</sup> Actual in-quota imports of cotton substantially exceeded the annual quota of 894,000 tonnes.<sup>14</sup> Agricultural products subject to state trading comprise grains (corn, rice, and wheat), sugar, tobacco, cotton, and some chemical fertilizers. With the exception of tobacco, these commodities are also subject to TRQs; a substantial amount of the quotas are allocated to STEs.<sup>15</sup> Imports of tobacco remain under state monopoly.

18. Some agricultural imports remain subject to automatic licensing to monitor imports, and non-automatic import licences to fulfil China's international obligations and to administer TRQs.<sup>16</sup>

<sup>11</sup> The average applied MFN tariffs for agricultural products (WTO definition) and non-agricultural products in 2009 are unchanged by including or excluding *ad valorem* equivalents of non-*ad valorem* duties, which were provided by the Chinese authorities.

<sup>12</sup> OECD (2009a).

<sup>13</sup> The 45 lines are included in HS Chapters 10 (wheat, maize, and rice), 11 (cereal flour), 17 (sugar), 31 (fertilizer), 51 (wool and wool top), and 52 (cotton). Though fertilizer is not an agricultural product according to the WTO definition, it is mentioned in this section because of its importance as an input.

<sup>14</sup> In-quota imports of cotton increased from 1.165 million tonnes in 2007 to 2.111 million tonnes in 2008.

<sup>15</sup> Data provided by the authorities indicate that in 2008, STEs had the right to import 90% of the wheat quota, 60% of corn, 50% of rice, 70% of sugar, and 33% of cotton quotas, unchanged since 2007.

<sup>16</sup> The authorities consider goods imported under TRQs as products subject to non-automatic licensing, as they require non-automatic quota licences.

Automatic licensing covers, *inter alia*, poultry, vegetable oil, and tobacco. On 1 August 2009, China began to apply automatic import licensing on fresh milk, milk powder, and whey in order to monitor imports. In addition, Chinese buyers of dairy products are required to report their imports to the China Chamber of Commerce of Import and Export of Foodstuffs, Native Produce and Animal By-Products; the authorities maintain that this requirement is also aimed at monitoring the quantity of imports of dairy products, for statistical purposes. The general import prohibition is applied to products such as opium and ivory.

#### *Measures affecting exports*

19. Between 1 January 2008 and 31 December 2008, the Government imposed interim export tariffs, ranging from 5% to 25% on 57 tariff lines (HS 8-digit) covering wheat, corn, rice, and soybeans; the authorities maintain that the objective of such measures is to conserve natural resources or to protect the environment. On 1 July 2009, some of these export taxes were removed or lowered, including on wheat and rice. In addition, China has in place some measures to discourage exports of ethanol and fertilizers.

20. While China's main policy objectives in agriculture are to improve food security, and to maintain stable domestic production and prices, taxing the export of such products in order to reduce domestic prices also reduces farmers' incomes. To compensate for the fall in incomes requires direct payments, input subsidies, and support for production. Some of these policies are neither effective nor efficient (Box III.1). Direct income support programmes for consumers, for example, may be a more efficient and less trade-distorting measure than export taxes or restrictions, although they may involve higher administrative cost.

21. Eight agricultural products are currently subject to export prohibitions.<sup>17</sup> Only state-trading enterprises are allowed to export for cotton, rice, maize, and tobacco. China continues to impose global (i.e. irrespective of destination) and destination-specific export quotas. In 2009, global export quotas applied to cotton, grains (maize, rice, and wheat) and tea, some of which are subject to state trading. Destination-specific quotas remain in place for exports of live cattle, live swine, and live fowl to the Special Administrative Regions of Hong Kong and Macao.

22. China has notified to the WTO that it did not maintain or introduce any export subsidies in 2007.<sup>18</sup> Exporters of agricultural products are entitled to VAT rebates at the time of exportation; rebates vary according to commodity and are often lower than the statutory VAT rate, which results in an effective levy on exports.<sup>19</sup> The VAT on agricultural goods is 13%, but the "usual" export rebate rate for agricultural goods is 5%.

#### (b) Internal measures

23. Agricultural production in China is supported by a broad range of programmes, including: minimum prices for grains; purchases by state trading enterprises; direct payments; favourable taxation; input subsidies; and preferential loans. As noted, the actual level of support varies considerably from one product to another. China has made no notifications to the WTO Agriculture Committee regarding the support given to the agriculture sector during the period under Review;

<sup>17</sup> These products are ivory, bezoar, musk, liquorice roots of the kind used in perfumes, peat, some plants of medicinal use, and blackmoss (a seaweed).

<sup>18</sup> WTO document G/AG/N/CHN/13, 18 February 2009.

<sup>19</sup> The authorities maintain that insufficient fiscal capacity is the main cause of the less-than-full export VAT rebate and the Government has no intention to levy taxes on exports; therefore, the less-than-full export VAT rebate should not be simply interpreted as an export tax levy.

some agricultural support programmes were included in China's latest notification (in 2006) to the Committee on Subsidies and Countervailing Measures.

#### *Taxation*

24. China started to gradually phase out agricultural taxes in 2004. As a result, the remaining taxes on agricultural products are the tobacco leaf tax (20% of the purchase price for tobacco leaves), the VAT (13%), the deed tax (levied when a land contract or the right to a house is transferred), urban maintenance and construction tax, stamp tax, and farmland occupation tax (levied when arable land is used for non-agricultural purposes). Imports of certain agricultural products, including seeds and seedlings, fish fries and seed sources of wild animals and plants for breeding, up to specified annual ceilings, are exempt from VAT. Estimates of tax revenue forgone are not available, as the competent authorities for finance and taxation do not have such statistics.

25. In order to ensure that governments at county and township levels continue to have a stable source of revenue in the absence of revenues from the agricultural tax (abolished on 1 January 2006) and other taxes, transfers from the Central Government have been provided. The Central Government has transferred Y 41.9 billion annually to compensate for the removal of the agriculture tax and the special agriculture tax.

#### *Input supports*

26. The funds provided to the Comprehensive Subsidy on Agricultural Inputs, introduced in 2006, continued to increase, from Y 12 billion in 2006 to Y 63.8 billion in 2008. These supports are provided as an area-based payment to grain growers. In addition, support for improved quality seeds has also increased considerably in recent years, from Y 4.07 billion in 2006 to Y 12.07 billion in 2008. The support for quality seeds is available for wheat, rice, maize, soybeans, rapeseeds, and cotton. The central Government also provided a further Y 4 billion in 2008 (up from Y 2 billion in 2007) for subsidies for agricultural machinery and tools.

27. In addition to direct subsidies for inputs, China has price control programmes intended to reduce the cost of fertilizers through preferential prices for electricity and natural gas used by fertilizer producers, preferential transport prices, and exemptions from VAT and the rail construction fund. The Government has also reduced import duties and VAT on some raw materials for fertilizers; it charged special export taxes of up to 150% in September 2008, and at two rates, 50% or 75%, in 2009.<sup>20</sup>

#### *Direct payments*

28. About Y 15.1 billion was provided as direct subsidies in 2008 (including those accorded to grain producers); and Y 71.6 billion as general direct subsidies for grain farmers to assist them in meeting actual and envisaged changes in economic environment, such as price changes for agricultural inputs (e.g. diesel and chemical fertilizers).

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<sup>20</sup> OECD (2009a).

*Price controls and marketing*

29. The price of some commodities remains controlled or "guided" by the Government; these include tobacco, edible salt, and "key reserve materials" (Chapter III).<sup>21</sup> According to the authorities, the only remaining price control in China concerns tobacco.

30. A minimum procurement price scheme is in place for rice and wheat in major producing areas. The Government purchases these products at the minimum procurement price when market prices fall below a certain threshold. The Government raised the minimum procurement prices for rice and wheat twice in 2008 and again in 2009. Purchases are made by the state-owned China Grain Reserves Corporation (Sinograin), funded by loans from the Agricultural Development Bank. The loans are repayed with the proceeds of subsequent sales of the commodity. The Outline of Middle and Long Term Plan for Grain Security (2008-20), which aims to increase grain output and to maintain China's 95% self-sufficiency ratio, also plans to hold a minimum of 70% of wheat and rice reserves.

31. The state-owned China State Cotton Reserve Corporation continues to intervene in the market to stabilize prices and supply and, similarly, state sugar reserves are used to stabilize the market.<sup>22</sup>

32. China's tobacco industry is subject to a state monopoly, with controls over production, marketing, and trade of tobacco products.

*Land reform and other reforms relevant to rural communities*

33. Under the Real Right Law (Property Law) of 2007, farmland continues to be owned by village collectives, which extend contracts to individual households. China implements stringent restrictions on conversion of arable land into non-arable land. Under the current "land tenure" system, individual farmers acquire land tenure rights for at least 30 years. Within the period of tenure, individual farmers are guaranteed their lawful rights for occupation, usage, and profits of tenured land. According to the authorities, by the end of 2008, a majority of the farmers in China had obtained a long-term and guaranteed right to land contract and operation; to date, more than 90% of farmers have received their operation certificates. In October 2008, the Government decided to relax the constraints on the transfer of land-use rights and allowed exchange markets for trading such rights. The authorities regard transfer of the rights an important element of land management and encourage these transfers; they have allowed farmers to transfer the operation right of the land contract through various forms, including subcontracting, leasing swapping.<sup>23</sup> This has apparently enabled farmers to transfer their land use rights more freely, and contributed to mechanization in agriculture. It remains to be seen how the size and the nature of such transfers will affect productivity in agriculture.

34. In August 2009, a pilot pension programme was introduced for farmers. The programme is to provide "personal account" pensions and basic pensions to farmers currently over 60 and residing in the pilot programme areas. The basic pension is fully subsidized by the Government. This scheme is apparently intended to complement a three-pillar pilot rural pension programme introduced in 2003.<sup>24</sup>

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<sup>21</sup> The key reserve materials are cotton, grain, sugar, and steam filature yarns. Chemical fertilizers are also considered key reserve materials.

<sup>22</sup> OECD (2009a).

<sup>23</sup> At the same time, the Government maintains that the transfer should not change the nature of collective ownership of land.

<sup>24</sup> The first pillar consists of a basic pension scheme (Y 55 per month). The second pillar is provided in accordance with the accumulation of individual contributions of about 4-8% of average local income. The third

Furthermore, free compulsory education was introduced in rural areas in 2007, as well as rural cooperative health care system, covering 85% of the rural population.

### (3) ENERGY

35. China continues to have a high demand for energy, due mainly to its rapid growth. This increasing need for energy, combined with environmental concerns, has shaped China's energy policy. Energy security remains the core of China's energy strategy, and the Government intends to secure energy via, *inter alia*, building reserves, promoting the diversification of suppliers, developing renewable energy sources, strengthening energy conservation, and improving the efficiency of energy consumption. Other major policy goals include reducing energy intensity and thus protecting the environment; the Eleventh Five-Year Plan (2006-10) set a compulsory target to reduce energy intensity by 20% by 2010.<sup>25</sup> In 2008, energy consumption per unit of GDP fell by 5.2%, after a fall of 5.04% in 2007 and 2.74% in 2006. In November 2009, the State Council announced another compulsory target; by the end of 2020, China is to reduce its carbon emissions per unit of GDP between 40% and 45% from their 2005 level.<sup>26</sup>

36. Despite the still growing importance of energy issues in China, there is currently no comprehensive law for the sector and the legislative framework continues to be provided by regulations and administrative documents rather than by laws.<sup>27</sup> Regulatory responsibility was split between several government agencies, which impeded coordination across industries and ministries.<sup>28</sup> Against this background, the Government has restructured the regulatory framework by setting up a National Energy Administration (NEA) in August 2008, with the intention of building an effective national-level energy institution.<sup>29</sup> The NEA took over responsibilities from: *inter alia*, the Energy Bureau under the NDRC, the Office of the National Energy Leading Group under the State Council, and the nuclear power administration of the Commission of Science, Technology, and Industry for National Defence (COSTIND).<sup>30</sup> However, it appears that the NEA still lacks the authority to effectively coordinate the interests of ministries, commissions, and state-owned energy companies.<sup>31</sup> It is also unclear how much autonomy the NEA is to have from NDRC on energy policy; for example, the NEA is under the administration of the NDRC, which remains in charge of, *inter alia*, "guiding" energy prices.

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pillar is based on voluntary individual accounts held in the National Social Security Fund. The Government aims to cover 10% of China's rural population by end-2009 and 100% by 2020 (World Bank Office, 2009).

<sup>25</sup> The amount of energy consumed in 2006 to produce one yuan's worth of output of goods and services needs to be reduced by 20% by 2010.

<sup>26</sup> State Council Information Office online information. Viewed at: <http://www.scio.gov.cn/xwfbh/xwfbh/wqfbh/2009/1126/index.htm> (in Chinese) [08.12.2009].

<sup>27</sup> An energy law is currently in the drafting process.

<sup>28</sup> In 2003, the Ministry of Energy, created in 1988 to oversee the development of the coal, oil, electricity and nuclear energy sectors, was dismantled, and an Energy Bureau was set up under the NDRC. The NDRC, through the Energy Bureau, is in charge of national strategies and policies, prices, and approving overseas projects of energy products.

<sup>29</sup> The NEA was established with a view to: strengthening the prospective, strategic, and comprehensive study of energy issues; formulating development plans, key policies, and standards on energy; organizing the implementation of such policies; and improving the Government's ability to guarantee energy safety.

<sup>30</sup> In principle, the NEA has a broad mandate: administering the energy sector; drafting energy plans and policies; negotiating with international energy agencies; and approving foreign investment in the energy sector.

<sup>31</sup> Downs (2008).

37. China has been relaxing its investment regime in the energy sector, although the sector remains state-dominated.<sup>32</sup> In 2005, the State Council issued guidelines (the so-called "36-clause on the non-public sector") allowing private companies (including domestic and foreign enterprises) to invest in previously restricted sectors dominated by SOEs, including the oil and gas industry.<sup>33</sup> However, this 36-clause is not implemented evenly in China, and the state monopoly is a barrier for private competition; for example, the State-owned Assets Supervision and Administration Commission (SASAC) explicitly identified seven industries, including oil and coal, for state control.<sup>34</sup> Also, although private companies are allowed to run refining, wholesaling, and retailing of oil, a lack of access to stable crude oil supply remains a major problem (i.e., oil imports and exploration are both controlled by SOEs).<sup>35</sup> Thus, the oil and gas industry remains dominated by three state-controlled companies, the China National Petroleum Corporation (CNPC), China Petrochemical Corporation (Sinopec), and China National Offshore Oil Corporation (CNOOC).

38. As in the previous Review, tariff protection on energy products is low, but their imports are often subject to state trading, and some energy products are subject to automatic import licensing. The applied tariff on crude petroleum (HS 2709.0000) remained zero in 2009, while the tariff on processed petroleum products (HS 2710) was lowered from 5.8% in 2007 to 5.1% in 2009. Imports of waste oils continue to be prohibited (HS 2710.9100 and 2710.9900). Imports of crude and processed oil are under state trading, although non-state-trading enterprises can import limited volumes. In 2009, imports of 22 million tonnes of crude oil and 11.25 million tonnes of processed oil were allowed by non-state-trading enterprises registered in China, with a registered capital of no less than Y 50 million.<sup>36</sup> On the other hand, exports of energy products in general, including oil and coal, are restricted; they are subject to export quotas, licensing, state trading, or export taxes (Chapter III).

39. China does not encourage the domestic processing of products that are highly polluting or highly energy/resource consuming under "processing trade". Most coal products and some processed petroleum products cannot be imported under bonded status as inputs to be processed under "processing trade", while some other products cannot be exported if processed under the "processing trade" regime. However, their imports or exports are still allowed under "normal trade", that is, if the import tariffs are paid on imported inputs.

40. Realizing that the Government price controls had provided incorrect signals to consumers because the prices did not include the social costs of environmental externalities, and that energy has tended to be under-priced, the Government has been continuing its tax reforms and has begun pricing reforms for energy products, in particular processed oil products.<sup>37</sup> The Government also is considering introducing an environment tax during the 12<sup>th</sup> Five-year period (2011-15). In addition, in December 2008, China abolished six fees, including road tolls, and raised excise tax rates on processed oil (from Y 0.2 to Y 1 per litre for petrol, and from Y 0.1 to Y 0.8 per litre for diesel). Following this, the Government started to apply a new pricing mechanism on processed oil from

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<sup>32</sup> Foreign competition in the retail of crude and processed oil products has been allowed since 2004, and petroleum refining was included in the 2007 Catalogue of Encouraged Foreign Investment Industries. The wholesale market was opened to foreign competition in 2006.

<sup>33</sup> The State Council's Guidelines on Encouraging and Supporting the Development of the Non-Public Sector including Individual and Private Enterprises.

<sup>34</sup> All China Federation of Industry and Commerce (2007), p. 30.

<sup>35</sup> *People's Daily* online news (11 May 2009). Viewed at: <http://energy.people.com.cn/GB/9273566.html> (in Chinese) [28.05.2009].

<sup>36</sup> MOFCOM announcement No. 60, 2008. Viewed at: <http://www.mofcom.gov.cn/aarticle/b/c/200810/20081005826894.html>; and No. 80. Viewed at: <http://www.mofcom.gov.cn/aarticle/b/c/200808/20080805744180.html> (in Chinese [26.10.2009]).

<sup>37</sup> The Government raised VAT for coal from 13% to 17% as of January 2009.

May 2009, under which domestic prices of processed oil are based on the average price of international crude.<sup>38</sup> When the international crude oil price is below US\$80 per barrel, processed oil is priced at the crude oil price plus "normal" processing profit; when the international crude oil price is between US\$80 and US\$130 per barrel, the refineries "normal" processing profit diminishes, down to zero; when international crude oil is at more than US\$130 per barrel, the Government is to take fiscal measures to guarantee supplies of processed oil, without increasing its prices.<sup>39</sup>

#### (4) MANUFACTURING

41. Manufactured exports have traditionally been among the main engines of growth in China. In general, manufacturing is relatively open to both trade and foreign investment. The import tariffs for manufactured products are low, on average (for a developing country), and are mostly *ad valorem*; a few specific duties are imposed. In 2009, the average applied tariff for manufacturing products (ISIC Rev.2) was 9.5% (9.7% in 2007). They are mostly *ad valorem* duties, with a few specific duties imposed. In accordance with international obligations, some manufactured goods are prohibited from being imported or subject to non-automatic import licensing (Chapter III). Many are also subject to automatic import licensing for statistical purposes. A few products can be imported only under state trading.

42. Nonetheless, the average tariff for China's automotive sector was 16.2% in 2009 (compared with 15.3% in 2007), due mainly to the change in the number of tariff lines. The tariff on auto parts and components is 10%, while most passenger vehicles are subject to a tariff rate of 25%, and motorcycles of rates between 30% and 45%.<sup>40</sup> An automatic import licence is required from the MOFCOM. Also, imports of complete vehicles are permitted only through four coastal ports, two terrestrial ports, and Alataw Pass.<sup>41</sup> The importation of used vehicles, parts, and components are prohibited.

43. A significant share of China's international trade is under the mode of "processing trade" (Tables AI.1 and AI.2), under which imports are exempted from duties if the imported inputs are processed and exported within a certain period. With a view to lowering energy intensity and protecting the environment, some goods are "restricted" or "prohibited" from import (or export) under processing trade; however, the import (or export) of these products is allowed provided their import duties are paid. Further, roughly 85% of processing trade is conducted by FIEs, which have been traditionally favoured over domestic enterprises by banks.

44. Despite low import tariffs, China's exports of manufactured products are subject to less-than-full rebate of VAT, and a few manufacturing products are also subject to export taxes (Box III.1). The Government has been adjusting its VAT rebate rates or export taxes to control, restrict, or "manage" exports of certain products (Chapter III).

45. Since China's previous Review, the Government has been continuing with its direct intervention measures to "guide" resources into certain sectors of the economy, particularly manufacturing. China uses industrial policies, combined with expansionary fiscal and monetary policies, to boost the development of the manufacturing sector. For example, in early 2009, China

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<sup>38</sup> Domestic prices for processed oil products are adjusted when the international crude oil price changes by more than 4% from the moving average over 22 consecutive working days.

<sup>39</sup> NDRC announcement No. 1198, 2009.

<sup>40</sup> The authorities maintain that China has lowered its import tariffs on automobile products eight times since its accession to the WTO.

<sup>41</sup> Alataw Pass is to import complete vehicles from the Commonwealth of Independent States, into Xinjiang Uygur Autonomous Region and used in Xinjiang only.



issued industrial revitalization plans for ten sectors. The only services sector was logistics; the nine manufacturing sectors produced nearly 80% of China's total industrial value added and accounted for around one third of China's GDP. These nine sectors had all been affected greatly by reduced external demand (Chapter III). Their regulator, the Ministry of Industry and Information Technology (MIIT), along with the NDRC, intends to promote the development of these sectors by adjusting the VAT rebate rates on exports, providing preferential loans, supporting their innovation, and "guiding" the consolidation of industrial structures.

## **(5) SERVICES**

### **(i) Overview**

46. The Government has placed more emphasis on developing services by way of further liberalization of sectors, including financial services, telecommunications, and tourism. While the presence of SOEs is considerable in key services sectors, such as banking, telecommunications, and civil aviation, and there are still significant restrictions on foreign investment and private-sector activities, China has adopted some measures to further liberalize services, particularly financial services, telecommunications, and tourism.<sup>42</sup> China's commitments under the General Agreement on Trade in Services have not changed since its previous Review; the authorities consider that China had already implemented some of its GATS commitments ahead of the dates envisaged, and recent reforms are part of an ongoing liberalization process since its accession to the WTO.

### **(ii) Financial services**

47. In spite of recent developments, China's capital market is still underdeveloped. Data provided by the authorities indicate that market capitalization in the A-share market represented 71.5% of GDP as of May 2009, compared with about 49% in 2006. In 2008, a total of Y 5,998.4 billion worth of funds was raised by the non-financial sector, of which 83% was financed through bank loans and 17% through the issuance of government securities, and corporate bonds and equity.<sup>43</sup> The high degree of state ownership is another notable feature of the financial sector in China. The authorities have recently introduced various measures to strengthen supervision, and further develop the capital market, including the establishment of a new board (ChiNext) for start-up businesses, and conversion of non-tradeable shares to tradeable shares.

#### **(a) Banking**

48. Recent reforms include a recapitalization of the Agricultural Bank in late 2008 and the start of a process of conversion into a shareholding bank in 2009; the reform of the Agricultural Bank is still in progress. Four new subsidiaries, 22 new locally incorporated banks and 6 new branches of foreign banks were approved in 2008, and 4 new subsidiaries, 16 new locally incorporated banks, and 3 new branches were approved in 2009.

49. The disposal of NPLs has progressed. At the end of 2008, the ratio of NPLs to total loans of major commercial banks was at 2.4%, compared with 7.0% at the end of the first quarter 2007; the NPL ratio of rural commercial banks is somewhat higher, at 3.9%. At the end of 2007, NPLs of state-owned commercial banks (SOCBs) amounted to Y 1,115 billion (about 8.1% of total loans outstanding); they had fallen to Y 420.8 billion (about 2.8% of total loans outstanding) at the end of 2008. In the third quarter of 2009, these NPLs amounted to Y 364.2 billion (1.86% of total loans

<sup>42</sup> See WTO document S/C/W/309, 2 November 2009 for details of laws, regulations, administrative guidelines, and other measures affecting trade in services.

<sup>43</sup> PBC (2009).

outstanding). The authorities maintain that the five largest SOCBs did not transfer any NPLs to asset management companies in 2008 or 2009.

50. On 1 August 2009, the Circular of the State Administration of Foreign Exchange on Issues Concerning Foreign Exchange Administration of Overseas Lending Granted by Domestic Enterprises entered into force. It broadened the financing sources of overseas lending by domestic enterprises; these enterprises may now decide, *inter alia*, the timing and number of overseas lending transactions, at their discretion, within the total approved amount of lending. The balance of domestic enterprises' overseas lending may now reach 30% of their owners' equity (while not exceeding the amount of the enterprises' overseas FDI).<sup>44</sup>

51. The Bank of Tokyo-Mitsubishi was approved to issue bonds in RMB in China in May 2009. It was not clear to the Secretariat whether this was on a "pilot" or permanent basis.

52. China does not have a deposit insurance scheme; the authorities are currently considering the possibility of designing such a scheme.

53. Deposits at the China Postal Savings Bank, inaugurated in March 2007, amounted to Y 2.5 trillion in November 2009. The Bank is subject to the same laws, regulations, and rules, as well as enterprise income tax, as other banks. According to the authorities, the bank is recognized as a community bank or rural bank with extensive outlets across the nation, especially in the countryside.

54. The main legislation regulating the sector has not changed since 2008.<sup>45</sup> Authorities responsible for regulating commercial banks in China include the China Banking Regulatory Commission (CBRC), which is the primary authority responsible for the regulation and supervision of banking institutions as well as overseas operations of local institutions. Its main regulatory and supervisory responsibilities have remained largely unchanged. The People's Bank of China (PBC) is also responsible for maintaining financial stability.<sup>46</sup> The PBC has retained some broad supervisory powers, beyond the macro-prudential control of the financial sector.<sup>47</sup>

55. The licensing requirements and procedures, including for the expansion of the branching network domestically, have remained unchanged since China's previous Review.<sup>48</sup> The establishment of a commercial bank requires CBRC approval and the issuance of an operating licence. Likewise,

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<sup>44</sup> Previously, pursuant to the Circular on Administration Internal Management of Foreign Exchange by Transnational Corporations issued by the SAFE, domestic enterprises were allowed to engage in overseas lending from their own foreign exchange reserve, provided that each lending transaction was verified and approved by the competent authority.

<sup>45</sup> It includes the Law on the People's Bank of China, the Law on Commercial Banks, and the Law on Regulation and Supervision of the Banking Sector. The Regulations on Administration of Foreign-Funded Banks and its Implementing Rules determine the rules under which foreign bank branches, wholly foreign-funded banks, sino-foreign joint-venture banks may operate in China, while the Administrative Rules Governing the Equity Investment in Chinese Financial Institutions by Overseas Financial Institutions regulate equity investment by foreign financial institutions in Chinese-funded financial institutions already established. In the Regulations on Administration of Foreign-Funded Banks, a "foreign bank" is a commercial bank established outside China and approved by the supervisory authority where the bank is established, whereas a "foreign-funded financial institution" is a wholly foreign-funded bank, a Sino-foreign joint-equity bank, a foreign bank's branch or a foreign bank's representative office.

<sup>46</sup> WTO (2008).

<sup>47</sup> WTO (2008).

<sup>48</sup> The Law on Commercial Banks and the CBRC Rules on the Implementing Procedure for Administrative Licensing (issued on 12 January 2006) define the business scope, and set out licensing and other requirements for domestic-funded commercial banks.

there has been no change in the minimum registered capital requirement to establish banks, or to prudential requirements including the capital adequacy ratio (CAR).<sup>49</sup> Commercial banks may need further authorization to supply specific services, such as derivatives and wealth management, in accordance with prudential principles and depending on the capacity of individual banks.<sup>50</sup> Authorized commercial banks having obtained the relevant business qualification from the CBRC may conduct investment in certain financial products outside China, on behalf of both domestic institutions and China's residents.<sup>51</sup>

56. Commercial banks in China are generally prohibited from: trading and underwriting equity securities (unless they establish a separate subsidiary for that purpose<sup>52</sup>); underwriting insurance policies (they may act as agents to sell insurance products<sup>53</sup>); making domestic investments (other than in debt instruments issued by the Government and financial institutions, commercial paper, and corporate bonds issued by qualified non-financial institutions, and certain derivative products); engaging in trust investment business, securities operations, investing in real estate other than for their own use, and making equity investments in non-banking financial institutions and entities (unless otherwise specifically decided by the State Council); supplying financial leasing services directly (but by establishing a separate subsidiary).<sup>54</sup> China has been gradually promoting the establishment of fund management companies owned by commercial banks on a trial basis<sup>55</sup>; since 2008, the China Minsheng Bank Corp., Merchant Bank of China, and Shanghai Pudong Development Bank, and five large state-owned banks have obtained approval to establish fund management companies.

57. After the outbreak of the global financial crisis in 2008, the CBRC issued rules aimed at strengthening supervision of bank lending for fixed assets and project financing, as part of China's ongoing reform of the regulatory environment for banking. The CBRC Guideline on the Corporate Governance Reform and Supervision of State-owned Commercial Banks, issued on 16 May 2006 and

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<sup>49</sup> For example, minimum registered capital is Y 1 billion for a commercial bank, Y 100 million for an urban commercial bank, and Y 50 million for a rural commercial bank; the CAR must exceed 8%.

<sup>50</sup> A separate licence is required for all these services. Pursuant to Article 3 of the Law on Commercial Banks, unless otherwise stipulated, commercial banks within China are not allowed to engage in trust investment and securities operations, nor to invest in non-self-use fixed assets or non-bank financial institution (NBFII) and enterprises. Currently, with the authorization by the State Council, two commercial banks have equity investment in trust investment companies, while five commercial banks and one policy bank have established their own financial leasing companies. Banks whose headquarters are in Hong Kong and Macao SARs are considered "foreign" in this context.

<sup>51</sup> To apply for these services, the commercial bank must already have a foreign exchange business qualification. SAFE will, upon application, grant each qualifying commercial bank a foreign-exchange quota for its offshore-client wealth-management business, within which the bank may invest in foreign exchange financial products with foreign exchange purchased with RMB.

<sup>52</sup> Nonetheless, commercial banks are allowed, *inter alia*, within their business scope, to underwrite and deal in government bonds and bonds issued by financial institutions. See WTO (2008) for other securities-related activities banks may undertake.

<sup>53</sup> Commercial banks providing insurance agency services must obtain licences from the CIRC before conducting agency insurance business. Pursuant to Article 3 of the Law on Commercial Banks, unless otherwise stipulated, banks are not allowed to establish separate insurance companies. Nonetheless, the State Council has started a pilot programme on "comprehensive operations" by commercial banks, under which the supervisory authority has promulgated Pilot Rules on Administration of Equity Investment in Insurance Companies by Commercial Banks, specifying that a commercial bank may invest in only one insurance company.

<sup>54</sup> Banks wishing to supply these services must, *inter alia*, apply for a licence.

<sup>55</sup> The pilot programme on "comprehensive operations" by commercial banks also include: a pilot programme on equity investment by commercial banks in insurance companies; allowing some commercial banks to establish subsidiaries to engage in financial leasing; and a pilot programme for commercial banks to establish fund management companies.

currently being revised, continues to serve as a key guideline for corporate governance in banking. The current Rules Governing Capital Adequacy of Commercial Banks, based on the 1988 Basel Capital Accord (Basel I) were issued in 2007; the CBRC is gradually implementing the new Basel Capital Accord (Basel II).<sup>56</sup>

58. Since China's previous Trade Policy Review, there have been no changes in the requirements (including the minimum registered and paid-up capital and total operating capital) for the establishment of a wholly foreign-funded bank (subsidiary), a Chinese-foreign joint-venture bank, or branches opened by these banks, and a branch of foreign bank. The minimum asset requirements remain higher for the establishment of branches than for locally incorporated entities. Pursuant to the Guideline on Risk Management of Annexation Loan by Commercial Banks, promulgated on 9 December 2008, commercial banks that meet the standards in the Guideline are now allowed to engage in annexation loan operations (those related to financing merger and acquisition transactions).<sup>57</sup> Wholly foreign-funded and Chinese-foreign joint-venture banks may engage in the same business operations as domestic commercial banks, both in local and foreign currency.<sup>58</sup> Branches of foreign banks are not allowed to issue credit cards; the authorities maintain that such restrictions are for prudential reasons and consider that this is standard practice in many other countries. Branches of foreign banks may receive time deposits of not less than Y 1 million each from Chinese citizens within China. Restrictions concerning foreign equity participation in domestic financial institutions have not changed since the previous Review; they are stipulated in the Administrative Measures on Equity Investments of Overseas Financial Institutions in Chinese Financial Institutions.<sup>59</sup> Rules and regulations on opening of branches also remain unchanged; the authorities state that the reasons for applying different treatment for domestic banks and foreign-funded banks are largely prudential.

59. In addition to the sector-specific lending provided by policy banks, the PBC and other administrative authorities encourage commercial banks to adapt their lending to specific borrowers in light of relevant government policies; loan growth may be restricted administratively. Interest rates are subject to benchmarks, and lower and upper limits around these benchmark rates. Banking institutions must set their rates within the limit[0]s. Commercial banks are able to charge lending rates above the benchmark (but not lower than 90% of the benchmark), and offer deposit rates below – but not above – the benchmark. Market-based interest rates are allowed in the money and bond

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<sup>56</sup> Large commercial banks that play an active role in other countries' or regions' financial markets, and whose overseas business constitutes a substantial share of their total business activities will start to implement Basel II at end 2010, and no later than end 2013. Other commercial banks, including foreign bank subsidiaries in China, may apply to implement Basel II on a voluntary basis.

<sup>57</sup> Before starting operations, a commercial bank must design its business process for annexation loans and internal control system, as stipulated in the Guideline. After reporting to the supervisory authority, the bank may formally start the operation.

<sup>58</sup> Operational foreign-funded banks wishing to engage in local-currency business must have had their business in China for at least three years, and have been profitable for two consecutive years, prior to application.

<sup>59</sup> No single foreign financial institution may own more than 20% of the equity of a Chinese financial institution. In addition, if the combined equity investment of all foreign financial institutions in a non-listed Chinese financial institution is equal to or exceeds 25%, the non-listed Chinese financial institution will be regulated as a foreign-funded financial institution; if the combined equity investment of all foreign financial institutions in a listed Chinese financial institution is equal to or exceeds 25%, the listed Chinese financial institution will continue to be regulated as a Chinese financial institution. The term "Chinese financial institutions" referred to in the Rules comprise the Chinese commercial banks, urban and rural credit co-operatives, trust and investment companies, financial leasing companies, finance companies affiliated to enterprises, and other Chinese financial institutions chartered by the CBRC that are legally incorporated within the territory of the People's Republic of China.

markets, and commercial banks may charge lending rates above the benchmark (but not below 90% of the benchmark), and offer deposit rates below (but not above) the benchmark.<sup>60</sup> The interest rate spread has been narrowing, suggesting that more competition has taken place (Chapter I).

60. A maximum interest rate has been set for certain foreign-currency-dominated deposits of less than US\$3 million with a maturity of one year or less.<sup>61</sup> The foreign currencies involved include: U.S. dollars, yen, euros, and Hong Kong dollars. Regarding non-interest income, certain services are subject to regulated prices.<sup>62</sup>

(b) Insurance

61. At end 2008, there were 8 insurance groups and 112 insurance companies in China; 64 were domestic companies (31 property insurance, 30 life insurance, and 3 reinsurance), and 48 foreign companies (16 property insurance, 26 life insurance and 6 reinsurance). The Chinese insurance market remains highly concentrated. According to official information, the three largest life insurance companies held about 63% of market share in 2008, compared with 71.6% in 2006; the share of the three largest non-life companies was about 64% in 2008, compared with 67.25% in 2006. The insurance premiums of foreign insurance companies amounted to Y 39.12 billion, accounting for about 4% of the national market share. The assets of foreign insurance companies at end 2008 totalled Y 152.24 billion, accounting for 4.5% of the total assets of the sector (up from 4.4% in 2001). Taking into consideration the foreign-invested share in Chinese insurance companies, foreign insurance companies' total income accounted for around 24%; 33 Chinese insurance companies have received foreign investment to date.

62. The insurance market is regulated by the China Insurance Regulatory Commission (CIRC). The main legislation administering insurance services is the Insurance Law; its latest amendment entered into force on 1 October 2009.<sup>63</sup> Under the Law, all insurance companies providing insurance services in China must be registered, and all legal persons (including natural persons) or organizations in China requiring coverage in China must purchase insurance services from an insurance company registered and established in China. Approval is required for forms and rates for products having a "bearing on the interests of the public" (e.g. public security liability insurance products), compulsory insurance products, and newly developed life insurance products. Forms and rates for all other products, must be submitted to the regulatory authority just for the record. Furthermore, the Rules on the Administration of Insurance Brokerage Institutions regulate insurance and reinsurance brokerage business and the Rules on the Administration of Insurance Agency Institutions regulate insurance agencies. The Provisional Regulations on the Administration of Insurance Asset Management Companies allow foreign and domestic insurance companies to establish insurance asset management companies.

63. During the revision of the Insurance Law, the CIRC issued a notice in September 2008 to impose a moratorium on establishing sales offices for insurance; in accordance with a newly

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<sup>60</sup> Mortgage loans have been subject to a different policy. See WTO (2008).

<sup>61</sup> There are no restrictions on interest rates for foreign-currency-dominated loans, foreign-currency-denominated deposits over US\$3 million, or foreign-currency-dominated deposits of less than US\$3 million with a maturity of more than one year.

<sup>62</sup> These include: basic RMB settlement services (e.g. bank drafts, bank acceptances, promissory notes, checks, entrusted collection); and other commercial bank services determined by the CBRC and the State Development and Reforming Commission, based on the competitive situation in the market. Fees for other products and services are to be determined by banks based on market conditions. Regulated prices will be based on costs and allow for "slight profits".

<sup>63</sup> WTO document S/C/W/309, 2 November 2009.

amended Insurance Law, the CIRC issued the Rules on Administration of Insurance Companies, which entered into force on 1 October 2009. The Rules stipulate a certain higher entry benchmark for legal entities of insurance companies and their affiliates. The Rules also aim to strengthen internal control of insurance companies' affiliates; the supervision of sales offices is also subject to the Rules. Reinsurance business is covered by the Regulations on the Administration of Reinsurance Business.

64. Insurers may engage in either property insurance (loss or damage to property, liability insurance, and credit insurance) or personal insurance (including life, health, and accident and injury insurance); they may not concurrently provide property and personal insurance services, although an insurance company engaged in property insurance may, upon approval from the CIRC, provide short-term health and accidental injury insurance. For establishing branches, there have been no changes to minimum registered capital requirements, or other conditions, since China's previous Review. Foreign insurance companies may enter the market as 100% foreign-owned subsidiaries for non-life insurance and up to 50% foreign owned for life insurance. The CIRC circular "Interpretation of Several Issues Concerning the Application of the Measures for the Administration of Foreign Insurance Institutions' Representative Offices in China", which entered into force in December 2008<sup>64</sup>, clarifies certain conditions for the establishment of representative offices by foreign insurance companies, including a minimum asset requirement of US\$2 billion. The circular is intended to strengthen supervision of representative offices of foreign insurance companies in China.<sup>65</sup>

65. In order to establish an insurance asset company, non-life companies must have total assets of at least Y 5 billion, while life insurance companies and insurance holding groups must have at least Y 10 billion, and companies must have engaged in the insurance business in China for at least eight years.

66. China Post Life Insurance Company Limited obtained CIRC approval to start preparatory work for establishment in April 2008, and was established on 9 September 2009, with registered capital of Y 500 million. From a regulatory perspective, China Post Life Insurance is treated in the same way and under the same laws and regulations as other insurance companies in China; the authorities maintain that China Post Life Insurance does not enjoy any preferential treatment in regard to supervision standards. The new company targets mainly farmers, low-income urban residents, and migrant workers in cities; it is subject to enterprise income tax, like other insurance companies.

(c) Securities

67. Reform to convert non-tradeable shares of SOEs into tradeable share has continued since China's previous Trade Policy Review (Chapter III(4)(iv)).

68. On fund management, at end-October 2009, 88 foreign institutions had obtained licences as qualified foreign institutional investors (QFIIs); 76 have started to invest in the securities market in China (37 licences were granted between early 2008 and end-October 2009).<sup>66</sup> The authorities maintain that on approving foreign participation, priority is given to institutions dealing with

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<sup>64</sup> The establishment and operations of foreign insurance companies are governed by the Regulations on Administration of Foreign-funded Insurance Companies, and the Detailed Rules for Implementation of Regulations on Administration of Foreign-funded Insurance Companies. The authorities maintain that notices and rules issued by the CIRC since 2008 mainly concern the CIRC's supervision.

<sup>65</sup> For details of supervision of domestic insurance companies, see the Rules on Administration of Insurance Companies.

<sup>66</sup> Applications to qualify as a QFII must be approved by the CSRC, while the SAFE is responsible for approving the investment quota. See WTO (2008) for details.

long-term capital management investment, such as pension fund, insurers, and charity funds. Guiding principles on QFII inspections were issued in 2008, with a view to strengthening inspection. With regard to QFII's investment in A-shares, no single QFII may hold more than 10% in a listed company, and aggregate ownership of shares by QFIIs may not exceed 20%.

69. Three service providers in the Hong Kong SAR have been allowed to make equity investments in China's futures market in the form of joint ventures. The authorities are currently evaluating the business operations of the three companies, and studies are to be conducted on further opening the sector; thus a moratorium on granting new approvals is currently in effect.

70. On 23 October 2009, the ChiNext board, a new "growth enterprises board" aiming to attract innovative firms and other growing enterprises, was established in the Shenzhen Stock Exchange. At end-October 2009, 28 companies were listed in the ChiNext, raising about US\$2.3 billion. In accordance with relevant rules by the CSRC, before starting up an account and investing in the ChiNext, investors must be familiar with the rules of "growth enterprise board", be well aware of the market risk, and have the corresponding risk tolerance.

71. The stamp duty on the purchase of shares was eliminated in September 2008. The sale of shares remains subject to stamp duty of 0.1% on the value of transactions. There is no capital gain tax associated with the trading of shares.

72. As of October 2009, there were 106 securities brokerage firms in operation, 60 fund management companies, 164 futures firms, and 99 securities investment consultancy entities; there were 8 domestic securities companies (with foreign investment) and 33 sino-foreign joint-venture fund management companies.<sup>67</sup> More than 1,600 companies were listed on the two stock exchanges (Shanghai and Shenzhen), with a combined market capitalization of Y 12.1 trillion at end 2008.<sup>68</sup> Reflecting the recent global financial crisis, between end-2007 and end-2008, market capitalization decreased by 64% (in RMB terms) in Shanghai.<sup>69</sup> Market capitalization of A-shares was about 59% of GDP in May 2009, 60% of which is in shares that are to be unlocked by 2010.

73. There are three types of shares: A-shares, B-shares, and overseas-listed shares.<sup>70</sup> While China's stock market has a small number of institutional investors, shares held by these investors have been increasing. At end 2007, the market value of free-float A-shares held by institutional investors amounted to Y 4.43 trillion, or 48.71% of market capitalization of free-float shares and 13.54% of the total market capitalization in China (including non-tradeable shares and tradeable shares still "locked-up"). At end 2008, the market value of free-float A-shares held by institutional investors was Y 2.45 trillion, or 54.62% of free-float market capitalization and 20.21% of the total market capitalization in China.

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<sup>67</sup> China Securities Depository and Clearing Corporation (CSDCC) is the sole supplier of securities registration and transfer, securities depository services, and securities payment, clearing, and delivery. For bonds not traded in these two exchanges, these services are ensured by the China Government Securities Depository Trust & Clearing Co. Ltd (CGSDTC). Commercial banks acts as sub-custodians in the interbank market.

<sup>68</sup> Both exchanges are non-profit legal entities governed by a board of directors, and employ a membership system. Only full members are allowed to trade on the exchange.

<sup>69</sup> World Federation of Exchange (2009).

<sup>70</sup> A-shares are denominated in local currency, can be freely traded and transferred in domestic markets. Since 2002, QFIIs have been allowed to invest in A-shares. B-shares are domestically listed shares of China-incorporated companies, denominated in U.S. dollars in Shanghai, and HK dollars in Shenzhen. Overseas-listed shares are shares issued by Chinese companies listed on securities markets outside China (mainland).

74. At end-September 2009, for listed enterprises that had not accomplished the reform on conversion of shares, there was a total of about 9.9 billion non-tradeable A-shares, while the total market value of tradeable shares amounted to Y 10.07 trillion. The total market value of locked-up tradeable shares amounted to Y 9.5 trillion, accounting for around 49% of the total market value of A-shares. At end-December 2008, there were 235 listed companies owned by the Government, accounting for 13.73% of the total listed companies in number, and 19.74% of the total market capitalization.

75. Despite some recent development, the Chinese bond market, particularly the corporate segment, remains small and underdeveloped<sup>71</sup>, particularly the corporate segment. There were 14 listed companies issuing corporate bonds, raising Y 28.8 billion in 2008, compared with 3 companies raising Y 11.2 billion in 2007.

76. In China's futures market, a total of 19 products are traded in the three exchanges<sup>72</sup>, there were a total of 1.36 billion lots of transactions, for a transaction value of Y 71.9 trillion in 2008. The products traded include agricultural products, metal products, energy-related products and chemical industry products. Only Chinese citizens and corporations organized and registered in China may trade in these markets. Only members of the futures exchanges are allowed to trade directly in the exchange; trading by non-members is allowed only through authorized brokerage firms. Transactions in overseas futures must be approved by the CSRC, and may only be used for hedging; such transactions can only aim at sterilization. To date, 31 enterprises have been allowed to conduct overseas futures transactions.

77. Securities and futures markets are regulated by the CSRC. The main legislation is the Securities Law.<sup>73</sup> Under the Law and the Measures on the Administration of Stock Exchanges, stock exchanges are self-regulatory legal entities, providing space and facilities for, as well as organizing and supervising, the trading of securities.<sup>74</sup>

78. Requirements for establishing a securities company have remained largely unchanged since China's previous Review.<sup>75</sup> Under the Securities Law, a securities company must take the form of a limited liability company or a joint-stock limited company, and must be approved by the CSRC to engage in securities business.<sup>76</sup> The Regulations on the Administration and Supervision of Securities Firms, which entered into force on 1 June 2008 aim to improve the legal framework governing securities firms concerning, *inter alia*, incorporation standards, risk controls, supervision of

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<sup>71</sup> There are four categories of bonds in China's bond market: government or treasury bonds (T-bonds); central bank bonds; financial institutions bonds (F-bonds); and enterprise bonds (E-bonds). China's bond market consists of three main markets: the interbank market, the bank-counter market, and the exchange market (Shanghai and Shenzhen). See WTO (2008).

<sup>72</sup> Shanghai Futures Exchange (SHFE), Zhengzhou Commodity Exchange (ZCE), and Dalian Commodity Exchange (DCE).

<sup>73</sup> Other major laws and regulations include the Company Law, the Securities Investment Fund Law, the Regulations on Administration of Futures Trade, and various regulations dealing with securities offering and listing; securities and futures trading; corporate governance, mergers and acquisitions of listed companies; market intermediaries; and securities investment funds.

<sup>74</sup> In addition, the Securities Depository and Clearing Company provides a centralized register, custody and clearing services to, and exercises self-regulation over, securities trading.

<sup>75</sup> See WTO (2008).

<sup>76</sup> A securities company may engage in: securities brokerage; securities investment consultancy; financial consultancy related to securities trading and investment; securities underwriting; securities business on its own account; securities asset management; and any other securities business. Securities companies are allowed, with CSRC approval, to provide client financing and securities financing services.



companies, accountability, and protection of customers rights, as well as sound development of capital market.

79. China Securities Investors Protection Fund Corporation Ltd., established in August 2005, is a state-owned company that runs a securities investor protection fund, aimed at protecting stock investors from brokerages' bankruptcy or regulatory takeover for mismanagement and misappropriation. Since 2008, the Corporation has been expanding its functions into areas such as risk monitoring and risk control, and gradually establishing an integrated investor protection mechanism for monitoring and evaluating risk.

80. In principle, foreign suppliers may enter China's securities markets through the establishment of a new joint-venture with a Chinese partner or by taking a stake in an existing listed securities firm.<sup>77</sup> In December 2007, China raised the foreign equity participation limit in listed Chinese securities firms to 25% (accumulated total foreign participation); the limit is 20% for a single foreign investor, and aggregate ownership of shares by foreign companies may not exceed 25%; under the previous requirement, no single company was allowed to hold more than 10% in a listed company, and aggregate ownership of shares by foreign companies could not exceed 20%. At the same time, China reduced the period of continuous operation in securities required to obtain approval for foreign equity participation in such firms to five years (previously ten years). In 2008, two joint-venture securities firms were approved, and on 1 January 2008, China allowed qualified joint-venture securities firms to gradually expand their business into, *inter alia*, A-share brokerage, securities proprietary business, and asset management. The foreign equity limit for joint-venture securities firms is 33%

81. Since 2008, there have been no changes to the Measures for the Administration of Securities Investment Fund Management Companies, which regulate the establishment of domestically owned and sino-foreign joint-venture asset management companies.<sup>78</sup> The aggregate equity limit of foreign investment (direct and indirect holdings) for joint-venture fund management companies is 49%. Currently, 16 foreign institutions have foreign equity shares of 49%.

(d) Financial information

82. New provisions on the Administration of Provision of Financial Information Services in China By Foreign Institutions entered into force on 1 June 2009; they eased restrictions on the provision of financial information services by foreign institutions.

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<sup>77</sup> The business scope of these joint ventures is limited to underwriting stocks (including A, B, and H-shares) and bonds (including government and corporate bonds); brokerage business in only B and H-shares; and brokerage and proprietary trading of bonds (including government and corporate bonds).

<sup>78</sup> Under the measures, minimum registered capital of Y 100 million is required to establish a fund management company. Principal shareholders, defined as those having no less than 25% of total registered capital in the investment fund management company, must have minimum registered capital of Y 300 million; other shareholders must have registered capital and net assets of no less than Y 100 million. A foreign shareholder in these companies must: (a) be a financial institution established according to the law of its country of origin; (b) be located in a country that has "perfect securities laws and regulatory systems", and the securities regulatory institution must have signed an MOU on securities regulatory cooperation with the CSRC, and have kept an effective regulatory cooperation relationship; and (c) must have a minimum paid-up capital in convertible currency equal to Y 300 million, even if it is not a major shareholder.

**(iii) Telecommunications**

83. Since its previous Review, China has continued to liberalize telecommunication services and promote competition in the sector; new players and technology have been introduced and prices have come down.

**(a) Recent developments**

84. In September 2008, the minimum registered capital requirement was lowered from Y 2 billion to Y 1 billion for foreign-invested telecom enterprises engaging in basic telecom across the country, or across provinces, autonomous regions, and municipalities directly under the central government. The minimum requirement for basic telecommunications provided within a province, city, autonomous region, or municipality directly under the Central Government was also lowered, from Y 200 million to Y 100 million.<sup>79</sup> At the same time, the Government eliminated the approval requirement for domestic companies to be listed abroad.

85. The basic telecom market was restructured in 2008, and China Telecom entered the mobile telecom service market on 7 January 2009. Currently there are three basic services providers, all providing fixed-line service, mobile telephone service, data, IP telephony, and satellite service.

86. With a view to promoting transparency, China has been engaging in dialogues (involving meetings for questions and answers) on telecommunications with the United States, the European Union, and Japan.

**(b) Market structure**

87. Penetration rates of fixed-line services decreased slightly from 28.1 lines per 100 persons in 2006 to 27.1 lines per 100 persons in 2007; the corresponding figures for mobile telephones were 35.3 and 41.6. There has been a significant increase in the use of Internet services. According to the ITU's World Telecommunication Regulatory Database, as of 2008, China had granted 3 licences for local-distance service, local service, international service, mobile service, and leased-line service, respectively, 5 for satellite service, 1,257 for internet service providers, 253 for data communications, 43 for VSAT (Very Small Aperture Terminal) service, 13,894 for content providers, and 1,090 for call centres.

88. As a result of market restructuring led by the Government in 2008, China has three nationwide basic telecommunications service providers, China Telecom, China Mobile, and China Unicom, which are all state-owned enterprises. In October 2009, market shares in the fixed-telecom market, in terms of the number of subscribers and revenue, respectively, were: 64.5% 69.9% for China Telecom, 35.5% and 30.1% for China Unicom, and the remainder for China Mobile. Similarly, in the mobile telecom market, the respective shares were 6.7% and 5.2% for China Telecom, 20.5% and 12.1% for China Unicom, and 70.8% and 82.7% for China Mobile. The State remains the majority owner of all the basic telecom service providers<sup>80</sup>; however, private participation and foreign investment has been allowed gradually. The three companies have been listed in different stock exchanges: currently, the share of foreign ownership is around 25.8% in China Mobile, 31.6% in China Unicom, and 22.3% in China Telecom.

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<sup>79</sup> No new official applications to engage in basic telecommunications have been made by foreign investors since 2008.

<sup>80</sup> These assets are held by the state-owned Assets Supervision and Administration Commission (SASAC) on behalf of the country, despite the Regulations on Telecommunications (issued in 2000), which stipulate the separation of the Government from the business of providing telecommunication services.

(c) Regulatory structure and policies

89. The telecoms sector is regulated by the Ministry of Information Industries and Technology (MIIT), which sets tariffs and tariff caps for basic services, and supervises their implementation.<sup>81</sup> Internet activities and services are regulated, supervised, and administered by several departments, *inter alia*, the ministries and agencies dealing with the press, publications, education, health, drug administration, and industry and commerce. Telecommunication services that convey radio and television programming are regulated by the State Administration of Radio, Film and Television (SARFT).

90. The authorities consider that the MIIT is an independent regulator, independent from any telecommunications enterprises, as it is financed by State fiscal budget and its personnel are public servants. The MIIT, the NDRC, and the Ministry of Finance jointly promulgated an announcement to encourage the recent restructuring of telecom service providers; and the MIIT is in charge of issuing licences.

91. Telecommunication services are subject to the Anti-Monopoly Law.

92. The regulatory structure, and legislation and regulations on telecommunications have remained largely unchanged since China's previous Review. The Regulations on Telecommunication provide the overall legal framework for the sector. A draft Telecommunications Law is being examined by the State Council Legislative Office. The authorities maintain that China does not have a specific licence for "resale" of telecommunication service; enterprises may choose how they wished to provide services after obtaining a basic telecom licence, either by establishing their own facilities or by providing services on resale basis.

93. Three 3G licences were granted to the three basic service providers in January 2009. The authorities maintain "technological neutrality" in granting licences, allowing telecom operators to select technologies recommended by the ITU; China Mobile uses TDSCDMA, China Unicom uses WCDMA, and China Telecom uses CDMA2000.

*Interconnection*

94. No major changes have been made to rules governing interconnection during the review period.<sup>82</sup> A dominant carrier must not refuse requests for interconnection from other telecom service operators, and interconnection agreements must be filed with the MIIT.<sup>83</sup> The authorities do not yet

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<sup>81</sup> In addition, the relevant provincial telecom administration authorities are responsible for supervising and managing prices on local telecom services, in cooperation with the local authorities in charge of pricing; they are also responsible for the approval and registration of telecom pricing in the region, supervising the market, and dealing with violators.

<sup>82</sup> The process for interconnection is set out mainly in the Regulations on Telecommunications, the Regulations on the Interconnection between Public Telecommunication Networks, Measures on Supervision and Administration of Communications Quality between Public Telecommunications Networks, and Measures on Settlement of Interconnection and Apportionment of Relay Expense between Public Telecommunications Networks. The MIIT Measures on Settlement of Calling Charges between Telecommunications Networks regulate interconnection between telecom operators, and require fees to remain below certain levels. Service providers may negotiate any charges that are not set out in the regulations; MIIT or the relevant provincial telecom administration authorities may intervene when the parties are unable to agree.

<sup>83</sup> A dominant carrier is defined under the Regulations on the Interconnection between Public Telecommunication Networks as those who control necessary basic telecommunication equipment, and have more than a 50% market share in the local business and are able to "substantially affect the market accession of other service providers".

have clear standards to define "dominant carriers"; they are studying appropriate definitions in the light of progress in technology and network structure. The interconnection rules apply equally to the three basic telecom providers. If the operators are unable to reach a mutual agreement, they can apply to the MIIT or the relevant provincial telecom authority for mediation. The MIIT has settled several interconnection disputes, including one in 2008 and two in 2009. The authorities consider that the market mechanism works well in interconnection charges because all three basic service providers have extensive networks throughout China.

#### *Foreign investment and licensing*

95. Foreign investment in the sector is regulated by the Administrative Regulations on Foreign Investment in Telecommunications. The regulations were amended in September 2008 to, *inter alia*, lower the minimum registered capital requirement from Y 2 billion to Y 1 billion for foreign-investment telecom enterprises engaging in basic telecom services across the country, or across provinces, autonomous regions, and municipalities directly under the central government; and from Y 200 million to Y 100 million for FIEs engaging in basic telecom services within a province, autonomous region, and municipality directly under the central government.<sup>84</sup> At the same time, the Government eliminated the approval requirement for domestic telecom enterprises being listed abroad. The Administrative Regulations also stipulate restrictions on foreign equity participation; foreign participation is allowed up to 49% for basic telecom services and up to 50% for value-added telecom services.<sup>85</sup> Procedures for an FIE to obtain a licence have not changed since 2008.

#### *Telecommunications tariffs*

96. Data provided by the authorities indicate that the average of "comprehensive telecom tariffs" dropped by 11.5% year-on-year in 2008. There are mainly three types of tariffs: government set, government guided, and market adjusted.<sup>86</sup> For example, the MIIT sets tariff caps for fixed-line domestic, international long-distance telephony, and mobile domestic roaming.<sup>87</sup> Tariffs for different telecom services vary significantly by region due to economic conditions and users' ability to pay. The current regulatory framework for telecom tariffs includes: Measures on the Approval and Filing Procedure of Telecommunication Tariff, the Catalogue of Telecommunications Tariffs Subject to Market-adjusted Prices, and the Catalogue of Telecommunications Tariffs Administered by Provincial

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<sup>84</sup> State Council Order No. 534, promulgated on 10 September 2008.

<sup>85</sup> The minimum registered capital for a telecom FIE providing value-added services across the country or across different provinces, autonomous regions, and municipalities directly under the Central Government (an area), is Y 10 million; for services provided within an area, the requirement is Y 1 million. The minimum registered capital requirement stipulated in the Administrative Regulations on Foreign Investment in Telecommunications is identical for foreign-invested and domestic telecom enterprises.

<sup>86</sup> Details of the government-set and government-guided tariffs administered by the Central Government are provided in the Catalogue of the National Development and Planning Commission and the State Council on Ministerial Pricing (Decree No. 11 of the National Development and Planning Commission). The Notice on Implementing the Market Adjusted Pricing for Part of the Telecommunication Business provides information regarding market adjusted tariffs.

<sup>87</sup> In March 2008, China lowered calling charges on domestic roaming of mobile telephone from Y 1.3-1.5 per minute to no higher than Y 0.6 per minute, and called charges from about Y 1.3-1.5 per minute to no higher than Y 0.4 per minute. Tariff caps are Y 0.07/6 seconds for domestic long-distance telephony, and Y 0.8/6 seconds for international long-distance telephony (for outgoing calls to the Hong Kong and Macao SARs, and Chinese Taipei, the tariff cap is Y 0.2/6 seconds). Various provinces have different ceilings for call charges within the operating range of local wired telephone networks, ranging from Y 0.18 per minute to Y 0.3 per minute. Single-direction charging of mobile telephone business, in which the called numbers are not charged, has been implemented within the business range to which the calling numbers belong, equivalent to the range of a local wired telephone network.

Communications Administration Authorities. The Regulations on Telecommunication stipulate that, where there is "adequate competition", prices of telecom services must be determined by the market. Tariffs for value-added services, and services where there is "sufficient market competition" have been liberalized gradually since 2002. In April 2008, charges were liberalized for temporary and short-term leasing of ordinary fixed-line telephone, local junction circuit, narrowband ISDN, packet exchange, voice (audio) circuit, DDN, digital circuit, and frame relay.

97. To adjust the charges for telecom services subject to government-set or government-guided tariffs, telecom business operators must file an application with competent authorities, with copy to the competent price administrative departments of the State Council or provincial governments. Business operators may determine and adjust their charges for telecom services within the permitted range of government guided tariffs, and those subject to market-adjusted tariffs by notifying, *ex ante*, such prices or adjustments, to the competent authorities. From 18 November 2009, the charges for basic monthly line rental and for calls within the operating range of local network, both in local-wired telephone business and wireless network telephone services (also called wireless local telephone or Xiao Ling Tong), as well as permanent rented circuits, were made subject to certain price ceilings (government-set tariffs).

98. According to the authorities, telecom service operators in China may offer preferential prices to customers, including credit accumulation and discounts, for reasons including competition and upgrading of technology. The pricing structure for mobile telephony services is similar. The authorities maintain that China, with its vast area and population, requires heavier front-loaded investment in telecom infrastructure than most other countries.

#### *Universal service*

99. Under the Regulations on Telecommunications (2000), operators must provide universal service. A fund is in the process of being established by the MIIT, together with other ministries; they are working on a cost structure for compensating service providers for the provision of universal service. Meanwhile, MIIT has issued a detailed plan related to universal service requirements on operators each year since 2004. Between January 2008 and December 2009, telephone service newly reached about 56,665 remote "natural villages" (over 20 households) and about 2,805 "administrative villages". The proportion of natural villages in China having telephone services rose from 90.6% to 93.5% and that of administrative villages from 99.5% to 99.8% during the period.

#### **(iv) Transport services**

##### **(a) Air transport services**

#### *Main trade-related developments*

100. During the review period, direct cross-straits flights was made possible and a number of regular flights between China and Chinese Taipei are already in operation. There have been no other major changes to the regulatory framework for air transport services. Nonetheless, the authorities consider that China has always been committed to opening up its market for civil aviation; the scope of opening has been large and the only area currently closed to foreign participation is management of air traffic control systems.<sup>88</sup> In 2008 and 2009, the authorities approved ten FDI projects worth

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<sup>88</sup> Since 2002, foreign investors in all-cargo, all-passenger, or combined airlines in China have been allowed to hold 49% of the capital, while the individual shareholding of a foreign investor and its affiliates must not exceed 25%. See WTO (2008) for more details of FDI restrictions in civil aviation.

US\$94.93 million, concerning, *inter alia*, investment in air traffic companies, training of pilots and airport services.

*Market overview*

101. At end 2009, there were 42 independent civil airlines in China, including 23 state-owned companies.

*Regulatory framework*

102. The CAAC is the main agency responsible for governance of the civil air transport sector. The sector is regulated by the Civil Aviation Law, administrative regulations issued by the State Council, and related rules formulated by the CAAC. Since China's previous Review, there has been no change in the legislative framework on civil aviation; requirements for the establishment of public air transport enterprises have also remained unchanged.

103. The authorities state that no domestic airlines are accorded exclusive rights by the Government. Nonetheless, Chinese civil servants are required to take Chinese flag carriers for official missions, unless no such flights are available on the "most economical routes". It would appear that some form of government assistance has recently been accorded to some Chinese airline companies.<sup>89</sup>

104. International airports are mainly owned and managed by the Government; there is some foreign investment through joint ventures.

105. Airport slot allocation for some busy airports is conducted by Slot Coordination Committees in accordance with the Provisional Rules on Slot Management issued by the Civil Aviation Administration of China (CAAC); the authorities maintain that the rules follow the principles of the IATA guidelines.<sup>90</sup> Slot Coordination Committees are composed of the regional administrative bureau, regional air traffic control bureau, the airlines that use the coordinated airport regularly, and representatives from the airport administrative institutions; the president of a Committee comes from the regional administrative bureau.

106. According to the authorities, there are no examination or approval requirements for Chinese airlines to use foreign computer reservation systems (CRS); agents of foreign airline companies must obtain approval from the CAAC before connecting to, or using foreign CRS to reserve tickets for customers, in accordance with the Provisional Administrative Measures on the Usage of Computer (Passenger) Reservation System By Foreign Air Transport Enterprises and their Sale Agents within the Territory of China.

*Bilateral air service agreements and international linkages*

107. Between January 2007 and June 2009, China signed bilateral air services agreements with six countries (Tadzhikistan, Zambia, Saudi Arabia, Tanzania, Angola and Croatia), one protocol with the United States, and renewed one agreement (with North Korea). China has 112 bilateral air service agreements in force.<sup>91</sup> Currently, 90 foreign airlines operate over 1,330 passenger flights per week

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<sup>89</sup> Centre for Asia Pacific Aviation online information. Viewed at: <http://www.centreforaviation.com/news/2010/03/30/air-china-china-southern-and-china-eastern-relish-fresh-cash-injections-amid-booming-demand/page1> [1 April 2010].

<sup>90</sup> See WTO document S/C/W/Add.2, 28 September 2007, paragraph 592 for details of China's slot allocation mechanism.

<sup>91</sup> For details see WTO (2006).

and 313 cargo flights between 30 cities in China and over 100 cities overseas.<sup>92</sup> Following an approval for direct chartered flights between China and Chinese Taipei, which began on 15 December 2008, a bilateral pact was signed on 26 April 2009 to allow direct scheduled air traffic between 27 cities in China and 8 cities in Chinese Taipei; they have allowed 270 scheduled passenger flights per week (270 flights have been in operation since 31 August 2009) and 28 scheduled cargo flights per week between China and Chinese Taipei, served by 9 airlines from China and 5 airlines from Chinese Taipei.

#### *Foreign investment in the sector*

108. Foreign investment in the civil aviation industry is governed by Order No. 110, issued jointly by the CAAC, the MOFCOM (then MOFTEC), and the NDRC. Foreign investors are allowed to invest in or to manage all businesses related to civil air transport, except for those concerning air traffic control systems.

109. Foreigners may invest by establishing an equity joint venture or contractual joint venture; or through the purchase of shares of civil aviation enterprises, including shares issued overseas and foreign shares issued in China by the aviation enterprises.<sup>93</sup> Foreign investors in all-cargo, all-passenger, or combined airlines in China are allowed to hold 49% of the capital, while the individual shareholding of a foreign investor and its affiliates must not exceed 25%. CAAC Decree 110 stipulates that a single foreign investor (including its affiliate companies) may hold no more than 25% of the shares of an airline, and total foreign shares in an airline must not exceed 49%.

110. China allows service providers from the Special Administrative Regions of Hong Kong and Macao to provide management services for medium and small airports in the form of a contractual joint venture, equity joint venture or solely-funded enterprise.

#### (b) Maritime transport services

##### *Main trade-related developments*

111. As in air transport, cross-straits maritime traffic has been allowed since China's previous review, resulting in a significant increase in traffic between China and Chinese Taipei. Reform in pilotage services has made progress since 2007. In other areas, the regulatory environment for maritime transport in China has remained largely unchanged.

##### *Market structure*

112. Some 90% of China's exports and imports are transported by sea. At end 2008, about 300 international maritime transport companies were registered in China, among which about 30 were joint ventures. More than 160 international liners have been engaging in international shipping operations; 116 are overseas companies from around 30 countries and regions (about 72% of the total). China is party to the UNCTAD Convention on a Code of Conduct for Liner Conferences, 1974. It is not clear to the Secretariat whether liner conferences are exempted from the Anti-Monopoly Law.

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<sup>92</sup> These figures do not include flights between China and the Hong Kong and Macao SARs and between China and Chinese Taipei.

<sup>93</sup> Foreign investors must be qualified as a Chinese legal person to invest, in the form of contractual joint venture, in public air transport and general aviation enterprises engaging in business flights and air sight-seeing.

113. About 40 foreign shipping companies have set up wholly foreign-owned companies in China. Over 3,300 domestic and foreign companies have been qualified as non-vessel-operating common carriers (NVOCC), of which around 1,500 are foreign-invested companies and offshore companies. Since 2007, 30 foreign liners have obtained new licences to engage in international liner operations. Nearly 210 offshore companies have been qualified as NVOCCs, 5 overseas shipping companies have set up new wholly foreign-owned companies related to shipping and container transportation services, and opened 46 new subsidiaries in China.

*Regulatory system*

114. The regulatory system for maritime transport has remained largely unchanged since the previous Review of China. The Ministry of Transport (MOT), the Ministry of Communications (MOC) until March 2008, is in charge of formulating shipping and port policies. The Maritime Code and the Regulations on International Maritime Transportation provide the general regulatory framework, and encourage multimodal transport. Examination and verification by the MOT is required for an international shipping operator to engage in international liner services. Bulk shipping is also covered by the Regulations. In October 2007, China eliminated the approval requirement for the establishment of permanent representative offices in China by foreign-funded enterprises engaging in international shipping and auxiliary services to international maritime transportation.

115. According to the authorities, there are no financial subsidies or cargo preferences for domestic shipping companies; domestic and foreign companies enjoy equal market access with regard to international maritime transport services.

116. Shipping and towing between domestic ports (cabotage) must be undertaken by ships flying the national flag, unless otherwise stipulated by laws or administrative rules and regulations.<sup>94</sup> According to the authorities, there are no exclusivity rights or subsidies for ships flying the national flag.

117. An Ad-hoc Tax-free Registration Policy for the Chinese-flagged ocean shipping fleet, introduced on 1 July 2007, remains in place.<sup>95</sup> The authorities maintain that the purpose of the Policy is to encourage the development of the Chinese-flagged ocean shipping fleet, and to safeguard the legitimate rights of Chinese seafarers. Under this policy, Chinese-owned vessels that were registered overseas before the end of 2005, had reached a certain ship age, and met relevant technical conditions, were exempted from customs duty and import VAT, and allowed to register back in China in accordance with the current ship registration regulations, if they complied with certain criteria on the age of the vessel and technical requirements, and if they submitted import declarations within two years, from 1 July 2007. This Policy, originally scheduled to end in June 2009, was extended until 2011.

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<sup>94</sup> The Regulation on Vessel Registration stipulates that, to fly the national flag, a vessel must be registered in China and obtain Chinese nationality. Its crews are usually Chinese citizens; when it is necessary to recruit foreign crew, approval from the MOC is required. In addition, if the ship is owned by a Chinese citizen, the owner must have their residence or main business office in China; if the ship is owned by a legal person, their main business office must be in China; for a joint venture with foreign investment, no less than 50% of the company's registered capital must be owned by the Chinese partner.

<sup>95</sup> Based on a notice issued in 2007 by the Ministry of Finance: the Notice on Relevant Issues on Import Taxation Policies Concerning the Registration in China of Chinese-Funded "Flag of Convenience" Ships.



*Foreign direct investment*

118. There has been no significant change in the regulatory framework on foreign direct investment in the maritime sector.<sup>96</sup> Wholly foreign-owned enterprises are allowed in maritime cargo storage and warehousing services; sino-foreign equity joint ventures or sino-foreign contractual joint ventures with the majority share held by the foreign partners are allowed for international ship management, international maritime container freight stations, and container yard services.

*Port services and auxiliary services*

119. Legislative framework concerning port services since China's previous Review has remained largely unchanged. The MOT is responsible for overall national port administration, including formulation of policy, while local governments designate a department (port administration authority) to implement port-related regulations and policies. The main legislation is the Port Law, under which domestic and foreign investment in port construction and operation is "encouraged". To engage in port operations, enterprises must obtain an operating licence from the port administration authorities.

120. Foreign investment in construction and management of port infrastructure (public wharf) is listed as "encouraged" in the Catalogue for the Guidance of Foreign Investment Industries; foreign investors may establish wholly owned port operators or set up joint ventures. A port's berths may be owned and operated by state-owned harbour companies, FIEs, or private enterprises. Port administrative functions are under the port administration authorities; port enterprises are responsible for daily operation.

121. Port charges are decided by the MOT and the NDRC, based on cost and level of competition in the market; port operators may set some fees, such as for warehousing and container yard services.<sup>97</sup>

122. Under the Regulations on Administration of Pilotage, pilotage is compulsory for foreign-flag vessels, and for some Chinese vessels under certain laws or regulations. All pilotage staff must be Chinese nationals. Since 2005, reforms in pilotage services have been conducted to, *inter alia*, separate pilotage entities from port enterprises and, based on the principle of "one port, one pilotage entity", establish non-profit pilotage entities administered by local port administration authorities.<sup>98</sup> More than 40 such pilotage entities have been established to date.

*Bilateral and international agreements*

123. According to the authorities, China does not have any cargo reservation or preference measures; all commercial cargo is accessed freely, unless covered by cargo-sharing arrangements.

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<sup>96</sup> In addition to Article 32 of the Maritime Transportation Regulations, which provides a general regulatory framework for foreign investment, detailed regulations are provided in the Administrative Rules on Foreign Investment in the International Maritime Transportation Industry. Under these rules, the MOC, and MOFCOM are responsible for granting approval for the establishment of FIEs operating in international maritime transport. Sino-foreign equity joint ventures, sino-foreign contractual joint ventures, or wholly foreign-owned enterprises are allowed to offer routine services, such as canvassing of cargoes, issuance of bills of lading, settlement of freight, and signing of service contracts for the investor's owned or operated vessels.

<sup>97</sup> Details of port charges are published on the website of the Ministry of Transport. Viewed at: [http://www.moc.gov.cn/zhuzhan/jiaotongguifei/guojiaguifei/gangkouguifei/200710/t20071009\\_430586.html](http://www.moc.gov.cn/zhuzhan/jiaotongguifei/guojiaguifei/gangkouguifei/200710/t20071009_430586.html). [05.12.2009].

<sup>98</sup> According to the authorities, for reasons of national security and port safety, it is not appropriate to privatize or corporatize pilotage entities.

124. China is a Category-A member of Council of the International Maritime Organization (IMO). It is party to the International Convention for the Safety of Life at Sea of 1974 (SOLAS), and the International Ship and Port Facility Security Code (ISPS). The port administration authorities and maritime safety administrations in China are responsible for the security of ship and port facilities across the country in accordance with the Regulations on Ship Security and the Regulations on Port Facility Security.

125. China has concluded bilateral maritime transport agreements with 60 countries/economies. The authorities indicate that disclosure of the content of some agreements, including the list of all the 60 countries/economies requires the consent of both parties involved. Bilateral agreements with Argentina, Brazil, Thailand, and Zaire have cargo-sharing provisions; the authorities maintain that cargo-sharing provisions are not used in practice.<sup>99</sup> A consultation mechanism has also been set up between China and several WTO Members, including the United States, the European Union, Japan, and the Republic of Korea. On 4 November 2008, China and Chinese Taipei agreed to open some of their ports to allow direct maritime traffic between them; to date, China has opened 68 ports and Chinese Taipei has opened 13. The authorities indicate that no data are available on the volume/frequency of such traffic.

126. Since China's previous Review, there has been no change in the Agreement on Maritime Transport between China and the United States<sup>100</sup>, or arrangements under the Closer Economic Partnership Arrangements (CEPA) with the Special Administrative Regions of Hong Kong and Macao.<sup>101</sup>

**(v) Postal and courier services**

127. China's main postal regulations include the Postal Law, Measures of Administration on Supervision of General Postal Services, Measures of Administration on Express Delivery Market, and Measures of Administration on Operation License of Express Delivery Services. The State Post Bureau is the competent authority for the supervision and administration of general postal services and the postal market in China. Under the leadership of the Postal Administrative Department of the State Council, the postal administrative institutions of provinces, autonomous regions, and municipalities directly under the jurisdiction of the Central Government are in charge of regional supervision and administration for general postal services and the postal market. China Post is the wholly state-owned enterprise; it provides basic mail services and express delivery of letters and parcels, as well as financial services.

128. Both foreign and domestic private express delivery companies engage in international express delivery of letters and parcels, competing with China Post Group Corporation. An amended Postal Law entered into force on 1 October 2009. The amended Law accords exclusivity to state-owned post

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<sup>99</sup> According to the authorities, these agreements include all the coastal countries that have diplomatic relations with China.

<sup>100</sup> Under the Agreement, U.S. shipping companies are allowed to establish joint-venture shipping agencies and wholly owned shipping companies, container transport service companies, and logistic service companies in China, while the United States does not label Chinese shipping companies as "controlled carriers".

<sup>101</sup> Under the CEPA, service suppliers in these regions are allowed to: set up wholly owned companies in China to conduct international ship management, seaborne cargo storage and warehousing, container yards, container freight stations, and NVOCC business; offer services such as cargo canvassing, issuing bills of lading, settling freight, and signing service contracts for the ships they own or operate; and utilize trunk-line container carriers to transport empty containers they own or rent between the mainland ports, after undergoing Customs procedures. The minimum registered capital requirements for these suppliers to engage in warehousing services and freight forwarding services are the same as for domestic enterprises.

offices for the basic delivery of "correspondence". According to the amended Postal Law, "correspondence" refers to letters and postcards; it would appear that "delivery of correspondence" includes "express delivery services". The Law also prescribes that "correspondence" means the information carriers that are sent to certain individuals or companies by addresses with sealed covers; books, newspapers or periodicals are not included in "correspondence". According to the authorities, the amended law will not prohibit foreign-invested express delivery enterprises from operating international express delivery of letters (except for certain private letters) and the international and the domestic express delivery of parcels. The legal office of the State Council is working on the examination and amendment of the "Provisions on the exclusive operation scope of the postal enterprises (draft for review)" submitted by the State Post Bureau.

129. The amended Postal Law establishes a licensing system for express delivery operations; it would appear that intra-provincial express delivery companies will face a minimum capital requirement of Y 500,000, while the requirement for inter-provincial and international business will be of Y 1 million and Y 2 million, respectively. The amended law also provides scope for compulsory payments to subsidize universal postal services. The State Post Bureau and the provincial post administrative department are in charge of examination and approval for express delivery operations. The authorities state that the State Post Bureau has issued Administrative Measures of Express Delivery Operation Licensing, and detailed application conditions and process for express delivery operation licences, based on the provisions of the Postal Law.

130. For some years, both foreign and domestic private express delivery companies have been engaging in express letter services, and there are over 100,000 foreign and non-state express mail service providers in China, which handle a large share of same-city mail delivery and over half of trans-province express mail services; mail below 350 grams accounts for over half of their services.<sup>102</sup> It remains to be seen how the new law, together with its implementing regulations, will affect these business operations.

131. On 4 November 2008, the Association for Relations Across the Taiwan Straits and the Straits Exchange Foundation signed the Postal Agreement Across the Taiwan Straits, which stipulates that all the postal services should be offered across the Taiwan Straits, within the scope of airmail letters, snail-mail letters (postal mail, registered letters, postcards, aerogrammes, presswork, braille, and packets), airmail parcels and snail mail parcels, express mail service (EMS), and postal exchange. Both sides may send mail packages to the other party's post processing centre by air or direct ocean shipping. The authorities indicate that mail exchange across the Straits has been fully realized. For China, the cities that may deliver mail to Chinese Taipei include Beijing, Shanghai, Guangzhou, Fuzhou, Xiamen, Xli'an, Nanjing, Chengdu; for Chinese Taipei, the cities that may deliver mail to China include Taipei, Kaohsiung, Keelung, Kinmen and Matsu Islands.

#### **(vi) Tourism**

132. The authorities are of the view that China liberalized the tourism sector in advance of its GATS commitments. In 2008, there were 30 foreign travel agencies operating regularly in China; 15 were wholly owned by foreign companies and 8 foreign controlled (3 from Hong Kong SAR, and others from Canada, Australia, Germany, the United Kingdom, and Japan).

133. On 1 May 2009, the Regulations of Administration on Travel Agencies were revised and renamed the Regulations on Travel Agencies; the new regulations allow foreign-invested travel agencies already established in China to open branch offices, allow any foreign natural or legal

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<sup>102</sup> Beijing Review online information. Viewed at: [http://www.bjreview.com.cn/lianghui/txt/2006-12/20/content\\_57427.htm](http://www.bjreview.com.cn/lianghui/txt/2006-12/20/content_57427.htm) [15.02.2010].

persons to establish travel agencies in China (previously, only foreign travel agencies or foreign enterprises whose core business was in tourism sector were allowed to invest in China), and offer foreign-invested tourism agencies national treatment by lowering the amount of required registered capital.<sup>103</sup> Foreign-invested travel agencies are prohibited, in principle, from providing outbound travel services. However, under the revised regulations, such business is allowed (1) with the approval of the State Council, (2) under provision of certain FTAs<sup>104</sup>, and (3) under special provisions in Mainland and Hong Kong or Macao Closer Economic Partnership Arrangements. Currently, the authorities are accelerating a pilot programme to allow foreign companies to provide outbound travel businesses.

134. China has concluded memoranda of understanding (MOUs) for approved-destination status (ADS), which allow travel agencies in China to sell group tours to ADS countries and economies. The authorities consider that the objective of ADS is to facilitate group travel by Chinese citizens to foreign countries; all countries may apply for ADS status. China has signed MOUs with 139 countries and regions (134 at end 2007); 104 have entered into force. Group tours by Chinese nationals to non-ADS countries and economies are not allowed.

**(vii) Other services**

135. The Law on Lawyers was amended on 28 October 2007 and entered into force on 1 June 2008; its implementing rules, the Measures for the Administration of Law Firms, as well as the Administrative Measures for the Practice of Law were issued on 18 July 2008. The amended law and rules stipulate the establishment, practice, and administrative rules of law firms, and licensing requirements and practices of lawyers, and provide for the protection of occupational rights of lawyers. They are intended to improve the legal framework for a rapidly changing environment for China's legal service sector. The amendment did not affect the regulatory environment for foreign lawyers and foreign law firms operating in China.<sup>105</sup>

136. Legislation, regulations, and rules concerning distribution and accounting services have remained largely unchanged since China's previous review.

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<sup>103</sup> Under the new Regulations on Travel Agencies, the amount of required registered capital for foreign investment was lowered to Y 300,000 (previously Y 2.5 million).

<sup>104</sup> None of China's FTAs (excluding Mainland and Hong Kong or Macao Closer Economic Partnership Arrangements) has provisions allowing foreign-invested travel agencies to provide outbound travel services.

<sup>105</sup> For details, see WTO (2008).

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**APPENDIX TABLES**





Table AI.1

Trade and trade-related measures adopted by China<sup>a</sup>, October 2008-February 2010

Measure	Source/Date	Status (in force unless otherwise indicated)
Import ban on live pigs and pork products from: Mexico and a number of U.S. States (26 and 29 April 2009), and Canada (Alberta) (3 May 2009) (A(H1N1) Flu related)	Permanent Delegation of China to the WTO	
Import ban on Irish pork.	Permanent Delegation of China to the WTO (December 2008)	
Elimination of export duties on 102 products including certain steel plates	Permanent Delegation of China to the WTO (1 December 2008)	
Reduction of export duties on 23 products including, for example, yellow phosphorous		
Export duties on 5 products (including apatite and silicon) raised from 10% to 15%, or from 20% to 35%.	Permanent Delegation of China to the WTO (1 December 2008)	
Elimination of lower Interim Import Tariff Rates on soybean oil-cake, pork, and neem oil, and resumption of normal MFN rates	Permanent Delegation of China to the WTO (1 January 2009)	
Cancellation of export licensing administration on silk worm cocoon, and certain silk products	Permanent Delegation of China to the WTO (1 January 2009)	
Adjustment of the list of products subject to prohibition and restriction under processing trade (certain plastic raw materials, plastic and wood products, textiles products, and metallic products delete from the list)	Permanent Delegation of China to the WTO (1 February 2009)	
Initiation of anti-dumping investigation on imports of terephthalic acid (HS 2917.36) from Korea and Thailand (12 February 2009)	Permanent Delegation of China to the WTO (12 February 2009)	
Restrictions on the export of certain highly energy-consuming, highly polluting, and exhaustible resource products	Permanent Delegation of China to the WTO (24 February 2009)	
Trade facilitating measures to speed up customs procedures and formalities	Permanent Delegation of China to the WTO (March 2009)	
Initiation of anti-dumping investigation on imports of nucleotide-type food additives (HS 2934.99; 3824.90) from Indonesia and Thailand (24 March 2009)	Permanent Delegation of China to the WTO (24 March 2009)	
VAT rebate rates increased on exports of certain products including: iron and steel; non-ferrous metals; petrochemicals; electronic and information technology products; and some light industries such as textiles and clothing. None of these rebates exceed the current VAT rate of 17%	Permanent Delegation of China to the WTO (1 April 2009)	
Establishment of currency swaps (Y 650 billion (US\$95.2 billion)), to facilitate trade with: Argentina, Belarus, Hong Kong China, Indonesia, Korea, and Malaysia	Permanent Delegation of China to the WTO (2 April 2009)	
Postal Law, approved on 24 April 2009, confirming the bans (already included in the 1986 Postal Law) on foreign courier companies from delivering express letters as of 1 October 2009, although they can still deliver express parcels and deliver letters internationally	Permanent Delegation of China to the WTO (24 April 2009)	
Initiation of anti-dumping investigation on imports of polyamide-6 (HS 3908.10) from the EU, Chinese Taipei, Russia, and the United States (29 April 2009)	Permanent Delegation of China to the WTO (29 April 2009)	
Changes in travel agency regulation allowing foreign-invested travel agencies (already established in China) to open local branches	Permanent Delegation of China to the WTO (1 May 2009)	
Cancellation of the policy of import duty reduction or exemption on imported products (if there is such applicable policy) when these products are subject to trade remedy measures	Permanent Delegation of China to the WTO (1 May 2009)	
Circular from the Ministry of Industry and Information Technology regulating its government procurement activities, under which it restates the practice of giving priority to domestic products, projects and services (provided for in the 2002 Law on Government Procurement)	Permanent Delegation of China to the WTO (11 May 2009)	

Table AI.1 (cont'd)

Measure	Source/Date	Status (in force unless otherwise indicated)
The Chinese National Development and Reform Commission issued a notice jointly with 8 other ministries and agencies restating provisions in existing laws including the 2002 law on government procurement concerning government procurement of domestic products and services.	National Development and Reform Commission Notice referring to "Opinions on Further Strengthening Supervision and Administration of Construction Project Bid Invitation and Bidding" (1 June 2009)	
Initiation of anti-dumping investigation on imports of methyl-alcohol (HS 2905.11) from Indonesia, Malaysia, New Zealand, and Saudi Arabia (24 June 2009).	Permanent Delegation of China to the WTO (24 June 2009)	
Anti-dumping duties on imports of newsprint (HS 4801.00; 4802.61; 4802.69) from Canada, Korea and the United States	Permanent Delegation of China to the WTO	Terminated without review on 30 June 2009.
Elimination or reduction of export taxes on certain products including wheat, rice, metals, fertilizers, and resource materials, as from 1 July 2009	Permanent Delegation of China to the WTO (1 July 2009)	
Introduction of automatic import licence for fresh milk, milk powder and whey for statistical purpose of import monitoring. Chinese buyers of dairy products are required to report their imports to the China Chamber of Commerce of Import and Export of Foodstuffs, Native Produce and Animal By-Products	Permanent Delegation of China to the WTO (10 July 2009)	
Administration measures and rules for verification for importation of auto parts with the features of finished automobiles	Permanent Delegation of China to the WTO (28 August 2009)	Abolished as from 1 September 2009.
Initiation of countervailing investigation on imports of grain-oriented electrical flat-rolled electrical steel (HS 7225.11; 7226.11) from the United States (1 June 2009)	Permanent Delegation of China to the WTO (9 September 2009)	
Initiation of anti-dumping investigation on imports of grain-oriented electrical flat-rolled electrical steel (HS 7225.11; 7226.11) from Russia and the United States (1 June 2009).	WTO Document G/ADP/N/188/CHN of 9 September 2009	
Initiation of anti-dumping investigation on imports of adipic acid (HS 2917.12) from the EU, Korea, and the United States (10 November 2008).	WTO Document G/ADP/N/188/CHN of 9 September 2009	Provisional measure imposed on 26 June 2009.
Initiation of anti-dumping investigation on imports of certain iron or steel fasteners (HS 7318.12; 7318.14; 7318.15; 7318.21; 7318.22) from the EU (29 December 2008)	WTO Document G/ADP/N/188/CHN of 9 September 2009	
Initiation of anti-dumping investigation on imports of polyamide-6,6 (HS 3908.10) from France, Italy, Chinese Taipei, United Kingdom, and the United States (14 November 2008)	WTO Document G/ADP/N/188/CHN of 9 September 2009	Provisional measure imposed on 26 June 2009.
Anti-dumping duties on imports of acrylate esters (HS 2916.12) from Korea (9 April 2008)	WTO Document G/ADP/N/188/CHN of 9 September 2009	Terminated on 8 April 2009.
Initiation of anti-dumping investigation on imports of gas chromatograph-mass spectrometer (HS 9027.20; 9027.50; 9027.80) from Japan (5 June 2008).	WTO Document G/ADP/N/188/CHN of 9 September 2009	Terminated without measure on 20 April 2009.
Initiation of anti-dumping investigation on imports of broiler chicken products from the United States	Permanent Delegation of China to the WTO (27 September 2009)	Provisional measure imposed on 13 February 2010.
Initiation of countervailing duty investigation on imports of broiler chicken products from the United States	Permanent Delegation of China to the WTO (27 September 2009)	
Import ban on poultry and poultry products from: Spain, France (Deux-Sèvres), and the UK (Hampshire)	Permanent Delegation of China to the WTO (1 February 2010)	
Initiation of anti-dumping investigation on imports of X-Ray security inspection equipment (HS 9022.19.10) from the EU (23 October 2009)	Permanent Delegation of China to the WTO (1 February 2010)	
Initiation of anti-dumping investigation on imports of saloon cars and cross-country cars of no less than 2,000 cc (HS 8703) from the United States (6 November 2009)	Permanent Delegation of China to the WTO (1 February 2010)	
Initiation of countervailing investigation on imports of saloon cars and cross-country cars of no less than 2,000 cc (HS 8703) from the United States (6 November 2009).	Permanent Delegation of China to the WTO (1 February 2010)	

Table AI.1 (cont'd)

Measure	Source/Date	Status (in force unless otherwise indicated)
Annual adjustment of the catalogue of items subject to automatic import licensing, which includes pork, chicken, vegetable oil, tobacco, paper, milk, minerals, chemicals, electrical products, and certain steel products	Permanent Delegation of China to the WTO (1 February 2010)	
Reduction of applied MFN import tariffs on six tariff lines (HS 0810.10, 0812.90, 2206.00.10, 2206.00.90, 4104.19, 5512.11) including fresh strawberries, fermented beverages, woven fabrics of synthetic staple fibres, hides and skins, as from 1 January 2010	Permanent Delegation of China to the WTO (1 February 2010)	
Elimination of export duties on 17 tariff lines (in HS sectors 2508, 2606, 2620, 2818, 2826, 2827, 2834, 7202, 7216) including clays, aluminium ores, chemicals, ferro-alloys, as from 1 January 2010	Permanent Delegation of China to the WTO (1 February 2010)	
Reduction of interim export duty rates on 21 tariff lines (in HS sectors 2809, 2814, 2834, 3102, 3103, 3105) including chemicals and fertilizers, as from 1 January 2010	Permanent Delegation of China to the WTO (1 February 2010)	
Temporary increase of MFN import tariffs on fuel oil (to 3%), and jet fuel (to 6%), but below their respective binding levels of 6% and 9%	Permanent Delegation of China to the WTO (1 February 2010)	
Elimination of import restrictions due to A(H1N1) Flu (on swine and swine products from Canada, 1 December 2009); and Bird Flu (from Chile and Thailand, 23 and 30 December 2009, respectively)	Permanent Delegation of China to the WTO (24 February 2010)	

- a The inclusion of any measure in this table implies no judgement by the WTO Secretariat on whether or not such measure, or its intent, is protectionist in nature. Moreover, nothing in the table implies any judgement, either direct or indirect, on the consistency of any measure referred to with the provisions of any WTO agreement or such measure's impact on, or relationship with, the global financial crisis.

Source: WTO document, WT/TPR/OV/12, 18 November 2009; and WTO/OECD/UNCTAD (2010), *Report on G20 Trade and Investment Measures (September 2009 to February 2010)*, March.

**Table A1.2**  
**Merchandise exports by group of products, 2005-2009**  
(US\$ billion and per cent)

	2005	2006	2007	2008	2009
Total exports (US\$ billion)	762.0	968.9	1,220.1	1,430.7	1,201.7
Processed exports	54.7	52.7	50.6	47.2	48.8
Total primary products	7.9	7.3	6.7	6.8	6.3
Agriculture	3.8	3.4	3.2	3.0	3.4
Food	3.2	2.9	2.7	2.5	2.9
Agricultural raw material	0.5	0.5	0.5	0.4	0.5
Mining	4.1	4.0	3.5	3.9	2.9
Ores and other minerals	0.4	0.3	0.2	0.3	0.2
Non-ferrous metals	1.4	1.9	1.6	1.4	1.0
Fuels	2.3	1.8	1.7	2.2	1.7
Manufactures	91.9	92.4	93.1	93.1	..
Iron and steel	2.5	3.4	4.2	5.0	2.0
Chemicals	4.7	4.6	4.9	5.5	5.2
Other semi-manufactures	7.6	7.8	7.7	7.4	7.4
Machinery and transport equipment	46.2	47.1	47.4	47.1	49.1
Power generating machines	0.8	0.8	0.9	1.2	..
Other non-electrical machinery	4.7	5.0	5.6	6.4	6.0
Office machines & telecommunication equipment	29.7	29.7	28.5	26.7	..
7522 Digital automatic data processing machines (..)	4.3	4.5	5.5	5.2	..
7649 Parts and accessories for apparatus of division 76	3.3	3.2	3.0	2.9	..
7643 Radio or television transmission apparatus	3.1	3.7	3.0	2.7	..
7599 Parts and accessories of 751.1, 751.2, 751.9 and 752	3.8	3.4	2.7	2.2	..
7764 Electronic integrated circuits and microassemblies	1.9	2.2	2.0	1.8	..
7638 Sound/video recording/reproducing apparatus	2.7	2.2	1.7	1.6	..
7526 Input or output units for automatic data processing machines	3.3	2.7	1.8	1.4	..
7611 Colour television receivers	1.1	1.3	1.5	1.3	..
7763 Diodes, transistors, etc.	0.4	0.5	0.7	1.1	..
7513 Photo copying apparatus with optical system, thermo-copying	0.4	0.5	1.0	0.9	..
Other electrical machines	7.1	7.4	7.5	7.5	..
7712 Other electric power machinery; parts of 771	1.0	1.0	1.0	1.0	..
7731 Insulated wire, cable etc.; optical fibre cables	0.6	0.7	0.8	0.8	..
7758 Electro-thermic appliances, n.e.s.	1.0	0.9	0.8	0.8	..
Automotive products	1.3	1.5	1.9	2.0	..
7843 Other motor vehicle parts and accessories of 722, 781 to 783	0.9	0.9	1.0	1.0	..
Other transport equipment	2.7	2.7	3.0	3.3	..
7932 Ships, boats, etc. (excl. pleasure craft, tugs, etc.)	0.5	0.8	0.9	1.2	..
Textiles	5.4	5.0	4.6	4.6	5.0
Clothing	9.7	9.8	9.5	8.4	8.9
8453 Jerseys, pullovers, cardigans, etc., knitted/crocheted	1.2	1.3	1.3	1.1	..
Other consumer goods	15.7	14.7	14.9	15.0	..
8719 Liquid crystal devices, n.e.s.; lasers (excl. laser diodes)	1.5	1.4	1.7	1.6	..
8943 Articles for funfair, table or parlour games	0.9	0.9	0.8	1.0	..
8211 Seats (excl. of 872.4), and parts	0.7	0.8	0.8	0.9	..
Other	0.2	0.2	0.2	0.1	..

.. Not available.

Source: UNSD, Comtrade database (SITC Rev.3); and General Administration of Customs (2009), *China's Customs Statistics: Monthly Exports & Imports*, 12, Series No. 244.

**Table A1.3**  
**Merchandise imports by group of products, 2005-09**  
 (US\$ billion and per cent)

	2005	2006	2007	2008	2009
Total imports (US\$ billion)	660.0	791.5	956.1	1,132.6	1,005.6
Processed imports	41.5	40.6	38.5	33.4	32.1
Total primary products	25.0	26.5	28.9	34.8	33.4
Agriculture	6.8	6.5	6.8	7.7	7.6
Food	3.3	2.9	3.4	4.4	4.5
2222 Soya beans	1.2	0.9	1.2	1.9	..
Agricultural raw material	3.6	3.6	3.4	3.3	3.1
Mining	18.1	20.0	22.0	27.2	24.9
Ores and other minerals	5.8	5.9	7.6	9.4	8.8
2815 Iron ores and concentrates, not agglomerated	2.4	2.4	3.2	5.0	..
2831 Copper ores and concentrates	0.6	0.8	0.9	0.9	..
2882 Other non-ferrous base metal waste and scrap, n.e.s.	0.7	0.8	0.9	0.8	..
Non-ferrous metals	2.6	2.9	3.4	2.8	3.8
6821 Copper anodes; alloys; unwrought	0.8	0.8	1.2	1.0	..
Fuels	9.7	11.2	11.0	14.9	12.3
3330 Crude oils of petroleum and bituminous minerals	7.2	8.4	8.4	11.4	..
Manufactures	74.7	73.2	70.9	64.8	..
Iron and steel	4.0	2.7	2.5	2.4	2.6
Chemicals	11.8	11.0	11.2	10.5	11.2
5112 Cyclic hydrocarbons	0.8	0.8	0.9	0.8	..
Other semi-manufactures	3.4	3.3	3.1	2.8	2.8
Machinery and transport equipment	44.0	45.1	43.2	39.0	40.6
Power generating machines	1.2	1.1	1.0	1.0	..
Other non-electrical machinery	8.5	8.0	7.5	7.3	7.0
7284 Machinery and appliances for particular industries, n.e.s.	1.6	1.5	1.6	1.4	..
Office machines & telecommunication equipment	24.3	25.0	23.7	20.5	..
7764 Electronic integrated circuits and microassemblies	12.4	13.4	13.4	11.4	..
7649 Parts and accessories for apparatus of division 76	3.3	3.2	2.6	2.2	..
7527 Storage units for data processing	1.7	1.7	1.6	1.5	..
7599 Parts and accessories of 751.1, 751.2, 751.9 and 752	2.5	2.4	1.8	1.4	..
7763 Diodes, transistors, etc.	1.3	1.3	1.2	1.1	..
Other electrical machines	6.3	6.6	6.6	6.0	..
7722 Printed circuits	1.0	1.1	1.1	1.0	..
7725 Switches, relays, fuses etc. for a voltage not exceeding 1,000 V	0.9	1.0	1.0	0.9	..
Automotive products	2.1	2.3	2.5	2.6	..
7812 Motor vehicles for the transport of persons, n.e.s.	0.7	0.9	1.0	1.2	..
7843 Other motor vehicle parts and accessories of 722, 781 to 783	1.0	1.1	1.1	1.0	..
Other transport equipment	1.6	2.1	1.8	1.7	..
7924 Aeroplanes, etc. (excl. helicopters), >15,000 kg unladen	0.8	1.2	0.9	0.7	..
Textiles	2.3	2.1	1.7	1.4	1.5
Clothing	0.2	0.2	0.2	0.2	0.2
Other consumer goods	9.0	8.8	8.9	8.4	..
8719 Liquid crystal devices, n.e.s.; lasers (excl. laser diodes)	4.6	4.5	4.7	4.3	..
Other	0.3	0.3	0.3	0.4	..

.. Not available.

Source: UNSD, Comtrade database (SITC Rev.3); and General Administration of Customs (2009), *China's Customs Statistics: Monthly Exports & Imports*, 12, Series No. 244.

**Table A1.4**  
**Merchandise exports by destination, 2005-09**  
(US\$ billion and per cent)

	2005	2006	2007	2008	2009
Total exports (US\$ million)	762.0	968.9	1,220.1	1,430.7	1,201.7
	(Per cent of total)				
America	26.0	26.3	24.9	24.2	24.6
United States	21.4	21.0	19.1	17.7	18.4
Other America	4.6	5.3	5.8	6.5	6.2
Canada	1.5	1.6	1.6	1.5	1.5
Brazil	0.6	0.8	0.9	1.3	1.2
Europe	20.2	20.9	21.6	21.9	21.0
EU(27)	19.1	19.6	20.1	20.5	19.7
Germany	4.3	4.2	4.0	4.1	4.2
Netherlands	3.4	3.2	3.4	3.2	3.1
United Kingdom	2.5	2.5	2.6	2.5	2.6
France	1.5	1.6	1.7	1.9	1.8
Italy	1.5	1.4	1.7	1.6	1.7
Spain	1.1	1.2	1.4	1.5	1.2
EFTA	0.4	0.4	0.5	0.5	0.4
Other Europe	0.7	0.9	1.0	0.9	0.8
Commonwealth of Independent States (CIS)	2.8	2.9	3.9	4.5	3.2
Russian Federation	1.7	1.6	2.3	2.3	1.5
Africa	2.4	2.7	3.1	3.6	4.0
Middle East	2.9	3.1	3.6	4.1	4.3
United Arab Emirates	1.1	1.2	1.4	1.7	1.6
Asia	45.6	44.0	42.8	41.7	43.0
Japan	11.0	9.5	8.4	8.1	8.1
Six East Asian Traders	27.7	27.6	26.6	25.2	25.3
Hong Kong, China	16.3	16.0	15.1	13.3	13.8
Korea, Rep. of	4.6	4.6	4.6	5.2	4.5
Singapore	2.2	2.4	2.5	2.3	2.5
Chinese Taipei	2.2	2.1	1.9	1.8	1.7
Malaysia	1.4	1.4	1.5	1.5	1.6
Thailand	1.0	1.0	1.0	1.1	1.1
Other Asia	6.8	7.0	7.9	8.4	9.6
India	1.2	1.5	2.0	2.2	2.5
Australia	1.5	1.4	1.5	1.6	1.7
Viet Nam	0.7	0.8	1.0	1.1	1.4
Indonesia	1.1	1.0	1.0	1.2	1.2
<i>Memorandum:</i>					
APEC	68.6	66.6	63.7	61.0	61.6
ASEAN	7.3	7.4	7.8	8.0	8.8

Source: UNSD, Comtrade database (SITC Rev.3), and General Administration of Customs (2009), *China's Customs Statistics: Monthly Exports & Imports*, 12, Series No. 244.

**Table A1.5**  
**Merchandise imports by origin, 2005-09**  
 (US\$ billion and per cent)

	2005	2006	2007	2008	2009
Total imports (US\$ billion)	660.0	791.5	956.1	1,132.6	1,005.6
	(Per cent of total)				
America	12.6	12.8	13.8	14.6	15.3
United States	7.4	7.5	7.3	7.2	7.7
Other America	5.2	5.3	6.5	7.4	7.6
Canada	1.1	1.0	1.1	1.1	1.2
Brazil	1.5	1.6	1.9	2.6	2.8
Europe	12.1	12.3	12.6	12.8	13.9
EU(27)	11.2	11.5	11.6	11.7	12.7
Germany	4.7	4.8	4.7	4.9	5.5
France	1.4	1.4	1.4	1.4	1.3
Italy	1.0	1.1	1.1	1.0	1.1
EFTA	0.8	0.7	0.8	0.8	1.0
Other Europe	0.1	0.1	0.2	0.2	0.2
Commonwealth of Independent States (CIS)	3.1	2.9	2.9	3.0	3.1
Russian Federation	2.4	2.2	2.1	2.1	2.1
Africa	3.2	3.6	3.8	4.9	4.3
Angola	1.0	1.4	1.3	2.0	1.5
Middle East	4.7	5.2	5.0	7.1	5.6
Saudi Arabia	1.9	1.9	1.8	2.7	2.3
Iran Islamic Rep.	1.0	1.3	1.4	1.7	1.3
Asia	55.9	54.0	53.0	49.5	49.2
Japan	15.2	14.6	14.0	13.3	13.0
Six East Asian Traders	32.5	31.2	30.0	27.0	27.1
Korea, Rep. of	11.6	11.3	10.9	9.9	10.2
Chinese Taipei	11.3	11.0	10.6	9.1	8.5
Malaysia	3.0	3.0	3.0	2.8	3.2
Thailand	2.1	2.3	2.4	2.3	2.5
Singapore	2.5	2.2	1.8	1.8	1.8
Hong Kong, China	1.9	1.4	1.3	1.1	0.9
Other Asia	8.2	8.2	9.0	9.1	9.1
Australia	2.5	2.4	2.7	3.3	3.9
India	1.5	1.3	1.5	1.8	1.4
Indonesia	1.3	1.2	1.3	1.3	1.4
Philippines	2.0	2.2	2.4	1.7	1.2
Other	8.4	9.3	9.0	8.2	8.6
Free zones	8.4	9.3	9.0	8.2	8.6
<i>Memorandum:</i>					
APEC	74.8	73.6	72.3	67.5	69.0
ASEAN	11.4	11.3	11.3	10.3	10.6

Source: UNSD, Comtrade database (SITC Rev.3), and General Administration of Customs (2009), *China's Customs Statistics: Monthly Exports & Imports*, 12, Series No. 244.

**Table AII.1**  
**China's major trade-related laws and regulations, December 2009**

Legislation (comment)	Adoption of latest amendment	Entry into effect	Date of first adoption
<b>Foreign trade, exchange restrictions, and foreign investment</b>			
Foreign Trade Law (G/LIC/N/1/CHN/4)	6 Apr 2004	1 July 2004	12 May 1994
Regulations on Origin of Import and Export Goods	18 Aug 2004	1 Jan 2005	
Regulation on the Administration of the Import and Export of Goods (G/LIC/N/1/CHN/4)	31 Oct 2001	1 Jan 2002	
Rules for the Registration of Foreign Trade Operators	19 June 2004	1 July 2004	
Rules on Investigations of Foreign Trade Barriers (Replaced 2002 Provisional Rules on Investigations of Foreign Trade Barriers)	21 Jan 2005	1 Mar 2005	
Regulations on the Export Control of Arms Products	15 Oct 2002 <sup>a</sup>	15 Nov 2002	22 Oct 1997
Regulations on the Export Control of Nuclear Products	9 Nov 2006	1 Nov 2006	1 Aug 1997
Regulations on the Export Control of Dual-purpose Biological Products and Relevant Equipment and Technology	14 Oct 2002 <sup>a</sup>	1 Dec 2002	
Regulations on the Export Control of Dual-purpose Nuclear Products and Related Technologies	26 Jan 2007	26 Jan 2007	10 June 1998
Regulations on the Export Control of Missiles and Related Items and Technologies	22 Aug 2002 <sup>a</sup>	22 Aug 2002	
Regulations on the Export Control of Certain Chemicals and Related Equipment and Technologies	19 Oct 2002 <sup>a</sup>	19 Oct 2002	
Regulations on Foreign Exchange Control	1 Aug 2008	5 Aug 2008	18 Dec 1980
Decision of the Standing Committee of the NPC on Punishing Crimes of Fraudulently Purchasing, Evading and Illegally Trading in Foreign Exchange	16 Dec 1998	25 Jan 1999	
Law on Chinese-Foreign Equity Joint-Ventures	15 Mar 2001	15 Mar 2001	1 July 1979
Regulations for the Implementation of the Law on Chinese-Foreign Equity Joint-Ventures	22 July 2001 <sup>a</sup>	22 July 2001	20 Sep 1983
Law on Chinese-Foreign Contractual Joint-Ventures	31 Oct 2000	31 Oct 2000	13 Apr 1988
Regulations for the Implementation of the Law on Chinese-Foreign Contractual Joint-Ventures	4 Sept 1995 <sup>a</sup>	4 Sept 1995	
Law on Foreign-Capital Enterprise	31 Oct 2000	31 Oct 2000	12 Apr 1986
Regulations for the Implementation of the Law on Foreign-Capital Enterprises	12 Apr 2001 <sup>a</sup>	12 Apr 2001	28 Oct 1990
Law on the Protection of Investment of Taiwan Compatriots	5 Mar 1994	5 Mar 1994	
Provisions on Guiding Foreign Investment Direction	11 Feb 2002	1 Apr 2002	
Measures for the Administration of Partnership Enterprise Registration	9 May 2007	1 June 2007	19 Nov 1997
Measures for the Administration on the Establishment of Partnership Business by Foreign Enterprises or Individuals in China	19 Aug 2009	1 Mar 2010	
<b>Customs- and tariff-related regulations</b>			
Customs Law	8 July 2000	1 Jan 2001	22 Jan 1987
Regulations on Import and Export Tariff (G/VAL/N/1/CHN/4)	29 Oct 2003	1 Jan 2004	18 Mar 1992
Anti-dumping Regulations (G/ADP/N/1/CHN/2/Suppl.3)	31 Mar 2004 <sup>a</sup>	1 June 2004	31 Oct 2001
Regulations on Countervailing Measures (G/SCM/N/1/CHN/1/Suppl.3)	31 Mar 2004 <sup>a</sup>	1 June 2004	31 Oct 2001
Safeguard Regulations (G/SG/N/1/CHN/2/Suppl.3)	31 Mar 2004 <sup>a</sup>	1 June 2004	31 Oct 2001
Regulations on Customs Protection of Intellectual Property (IP/N/1/CHN/2/Add.1)	26 Nov 2003	1 Mar 2004	5 July 1995
Regulations on Customs Statistics	25 Dec 2005	1 Mar.2006	
Regulations on Export Products Responding to Anti-dumping Cases	14 July 2006	14 Aug 2006	
<b>Standards and technical regulations</b>			
Law on Import and Export Commodity Inspection	28 Apr 2002	1 Oct 2002	21 Feb 1989
Regulations for Implementation of Import and Export Commodity Inspection	10 Aug 2005	1 Dec 2005	7 Oct 1992
Standardization Law	29 Dec 1988	1 Apr 1989	
Regulations for the Implementation of the Standardization Law	6 Apr 1990	6 Apr 1990	
Law on the Entry and Exit Animal and Plant Quarantine	30 Oct 1991	1 Apr 1992	

Table AII.1 (cont'd)



Legislation (comment)	Adoption of latest amendment	Entry into effect	Date of first adoption
Regulations for Implementation of the Law on the Entry and Exit Animal and Plant Quarantine	2 Dec 1996	1 Jan 1997	
Food Safety Law	28 Feb 2009	1 June 2009	
Law on Product Quality	8 July 2000	1 Sept 2000	22 Feb 1993
Regulations for Compulsory Product Certification	3 Dec 2001	1 May 2002	
Regulations on Inspection and Quarantine of Entry and Exit Aquatic Products	18 Oct 2002	10 Dec 2002	
Frontier Health and Quarantine Law	2 Dec 1986	1 May 1987	
Regulations on Authentication and Approval	20 Aug 2003	1 Nov 2003	
Regulations for Safety Control of Dangerous Chemical Products	9 Jan 2002	15 Mar 2002	
Regulations on Imposing Administrative Penalties related to Certification and Accreditation	9 Dec 2003	9 Dec 2003	
Special Regulations of the State Council on Strengthening the Supervision and Administration the Safety of Food and Other Products	26 July 2007	26 Jul 2007	
Agricultural Products Quality Safety Law	29 April 2006	1 Nov 2006	
Regulations for the Implementation of Food Safety Law	8 July 2009	8 July 2009	
<b>Intellectual property rights</b>			
Copyright Law (IP/N/1/CHN/C/1)	27 Oct 2001	27 Oct 2001	7 Sept 1990
Regulations for the Implementation of the Copyright Law (IP/N/1/CHN/C/3)	2 Aug 2002 <sup>a</sup>	15 Sept 2002	24 May 1991
Trademark Law (IP/N/1/CHN/T/1)	27 Oct 2001	1 Dec 2001	23 Aug 1982
Regulations for the Implementation of the Trademark Law (IP/N/1/CHN/T/2)	2 Aug 2002 <sup>a</sup>	15 Sept 2002	
Patent Law (IP/N/1/CHN/I/1)	27 Dec 2008	1 Oct 2009	12 Mar 1984
Regulations for Implementation of the Patent Law (IP/N/1/CHN/I/3)	28 Dec 2002 <sup>a</sup>	1 Feb 2003	
Regulations on Computer Software Protection (IP/N/1/CHN/C/2/Rev.1)	20 Dec 2001 <sup>a</sup>	1 Jan 2002	
Regulations on the Protection of Layout-Design of Integrated Circuits (IP/N/1/CHN/L/1/Rev.1)	28 Mar 2001	1 Oct 2001	
Regulations on Protection of New Varieties of Plants (IP/N/1/CHN/P/1)	20 Mar 1997	1 Oct 1997	
Regulations on the Administration of Technology Import and Export	31 Oct 2001	1 Jan 2002	
Regulation on Protection of Right to Network Distribution of Information	18 May 2008	1 July 2007	
Interim measures on Payment by Radio and TV Station for Broadcasting Audio Products	10 Nov 2009	1 Jan 2010	
<b>Tax regime</b>			
Law on the Administration of Tax Collection	28 Apr 2001	1 May 2001	4 Sept 1992
Decision of the Standing Committee of the NPC Regarding the Application of Provisional Regulations on such Taxes as Value-added Tax, Consumption Tax and Business Tax to Enterprises with Foreign Investment and Foreign Enterprises	29 Dec 1993	29 Dec 1993	
Interim Regulations on Value-added Tax	5 Nov 2008	1 Jan 2009	26 Nov 1993
Interim Regulations on Consumption Tax	5 Nov 2008	1 Jan 2009	26 Nov 1993
Interim Regulations on Business Tax	5 Nov 2008	1 Jan 2009	26 Nov 1993
Interim Regulations on Land Appreciation Tax	26 Nov 1993	1 Jan 1994	
Interim Regulations on Resources Tax	26 Nov 1993	1 Jan 1994	
Enterprise Income Tax Law	16 Mar 2007	1 Jan 2008	
Income Tax Law for Individuals	29 Dec 2007	29 Dec 2007	10 Sept 1980
The Implementing Regulations for the Enterprise Income Tax Law	28 Nov 2007	1 Jan 2008	
<b>Sectoral laws</b>			
<b>Agriculture</b>			
Agricultural Law	28 Dec 2002	1 Mar 2003	2 July 1993
Law on Land Contract in Rural Areas	27 Aug 2009	27 Aug 2009	
Land Administration Law	28 Aug 2004	28 Aug 2004	25 June 1986
Law on the Popularization of Agricultural Technology	2 July 1993	2 July 1993	
Grassland Law	28 Dec 2002	1 Mar 2003	18 June 1985

Table AII.1 (cont'd)

Legislation (comment)	Adoption of latest amendment	Entry into effect	Date of first adoption
Seed Law	28 Aug 2004	28 Aug 2004	8 July 2000
Fisheries Law	28 Aug 2004	28 Aug 2004	20 Jan 1986
Forestry Law	27 Aug 2009	27 Aug 2009	20 Sept 1984
Law on Prompting Agricultural Mechanization	25 June 2004	1 Nov 2004	
Regulations on Management to Grain circulation	19 May 2004	26 May 2004	
Regulations on the Management to Central Grain Reserves	6 Aug 2003	15 Aug 2003	
Measures for the Examination and Approval of the Entry-Exit and Foreign-related Joint Research and Utilization of Livestock and Poultry Genetic Resources	20 Aug 2008	1 Oct 2008	
<b>Manufacturing</b>			
Law on Tobacco Monopoly	29 June 1991	1 Jan 1992	
Pharmaceutical Administration Law	28 Feb 2001	1 Dec 2001	20 Sept 1984
Steel Industry Development Policy	20 July 2005	20 July 2005	
Industrial Policy for the Automobile Industry	21 May 2004	1 June 2004	19 Feb 1994
Automobile Trade Policy	10 Aug 2005	10 Aug 2005	
Administrative Regulations on Recalls of Defective Automobile Products	15 Mar 2004	1 Oct 2004	
<b>Energy, utilities and natural resources</b>			
Mineral Resources Law	29 Aug 1996	1 Jan 1997	19 Mar 1986
Water Law	29 Aug 2002	1 Oct 2002	21 Jan 1988
Regulations on Exploitation of Offshore Petroleum Resources in Cooperation with Foreign Enterprises	23 Sept 2001	23 Sept 2001	12 Jan 1982
Provisional Measures for Administration of the Market of Processed Oil	1 Jan 2005	1 Jan 2005	
Law on the Administration of the Use of Sea Areas	27 Oct 2001	1 Jan 2002	
Law on Water and Soil Conservation	29 June 1991	29 June 1991	
Law on Coal Industry	29 Aug 1996	1 Dec 1996	
Electric Power Law	28 Dec 1995	1 Apr 1996	
Regulations for Administration of Electricity Industry	2 Feb 2005	1 May 2005	
Laws on Conserving Energy	28 Oct 2007	1 April 2008	1 Nov 1997
Regulations on Exploitation of On-shore Petroleum Resources in Cooperation with Foreign Enterprises	18 Sep 2007	18 Sep 2007	7 Oct 1993
<b>Financial services</b>			
Law on the People's Bank of China	27 Dec 2003	1 Feb 2004	18 Mar 1995
Law on Commercial Banks	27 Dec 2003	1 Feb 2004	10 May 1995
Law on Regulation of and Supervision over the Banking Industry	31 Oct 2006	1 Jan 2007	27 Dec 2003
Law on Funds for Investment in Securities	28 Oct 2003	1 June 2004	
Regulations on Closure of Financial Institutions	23 Nov 2001	15 Dec 2001	
Regulation on Administration of Foreign-funded Banks	8 Nov 2006	11 Dec 2006	
Insurance Law	28 Oct 2002	1 Jan 2003	30 June 1995
Regulations on Administration of Foreign-funded Insurance Companies	5 Dec 2001	1 Feb 2002	
Trust Law	28 Apr 2001	1 Oct 2001	
Securities Law	27 Oct 2005	1 Jan 2006	29 Dec 1998
Regulations on the Administration and Supervision of Securities Firms	23 April 2008	1 June 2008	
Regulations on the Risk Disposal of Securities Firms	23 April 2008	23 April 2008	
Rules on the Establishment of Foreign-shared Fund Management Companies	1 June 2002 <sup>a</sup>	1 July 2002	
Rules for the Establishment of Foreign-shared Securities Companies	1 June 2002 <sup>a</sup>	1 July 2002	
Provisions of the State Council on Foreign Capital Stocks Listed in China by Joint Stock Limited Companies	2 Nov 1995	25 Dec 1995	
Auction Law	28 Aug 2004	28 Aug 2004	5 July 1996
Guaranty Law	30 June 1995	1 Oct 1995	
Regulation on the Administration of Futures Trading	7 Feb 2007	15 April 2007	

Table AII.1 (cont'd)

Legislation (comment)	Adoption of latest amendment	Entry into effect	Date of first adoption
Decision of the Standing Committee of the NPC on Punishment of Crimes of Disrupting Financial Order (Refer also to the 1997 Criminal Law Appendix II)	30 June 1995	30 June 1995	
Law on Lawyers	28 Oct 2007	1 June 2008	15 May 1996
<b>Other services</b>			
Accounting Law	31 Oct 1999	1 July 2000	21 Jan 1985
Law on Certified Public Accountants	31 Oct 1993	1 Jan 1994	
Regulations on Telecommunications (Telecommunications Decree)	20 Sept 2000	25 Sept 2000	
Regulations on Foreign Investment in Telecommunications Enterprises		10 Sept 2008	
Highway Law	28 Aug 2004	28 Aug 2004	30 July 1997
Regulations on Road Transportation	14 Apr 2004	1 July 2004	
Provisions on the Administration of Road Transport Services with Foreign Investment	20 Nov 2001 <sup>a</sup>	20 Nov 2001	
Railway Law	7 Sept 1990	1 May 1991	
Maritime Code	7 Nov 1992	1 July 1993	
Regulations on International Maritime Transportation	5 Dec 2001	1 Jan 2002	
Implementing Rules of Regulations on International Maritime Transportation	25 Dec 2002	1 Mar 2003	
Special Maritime Procedure Law	25 Dec 1999	1 July 2000	
Provisions on Administration of Foreign Investment in International Maritime Transportation	2 Mar 2004 <sup>a</sup>	1 June 2004	
Regulations on Administration of Pilotage	12 Oct 2001	1 Jan 2002	
Port Law	28 June 2003	1 Jan 2004	
Regulations on Administration of Port Operation	26 Dec 2003	1 June 2004	
Regulations on Port Facility Security	14 Nov 2003	14 Nov 2003	
Civil Aviation Law	30 Oct 1995	1 Mar 1996	
Regulations of Restriction for Universal Aviation	10 Jan 2003	1 May 2003	
Postal Law	24 Apr 2009	1 Oct 2009	
Law on Licensed Doctors	26 June 1998	1 May 1999	
Higher Education Law	29 Aug 1998	1 Jan 1999	
Education Law	18 Mar 1995	1 Sept 1995	
Compulsory Education Law	12 Apr 1986	1 July 1986	
Vocational Education Law	15 May 1996	1 Sept 1996	
Law on Promotion of Privately-run Schools	28 Dec 2002	1 Sept 2003	
Regulations on Sino-Foreign Cooperative Education	19 Feb 2003	1 Sept 2003	
Construction Law	1 Nov 1997	1 Mar 1998	
Regulations on Foreign-invested Construction Design Enterprises	27 Sept 2002 <sup>a</sup>	1 Dec 2002	
Law on Urban Real Estate	30 Aug 2007	30 Aug 2007	1 Jan 1995
Regulations on Construction Enterprises with Foreign Investment	27 Sept 2002 <sup>a</sup>	1 Dec 2002	
Regulations on Property Management	26 Aug 2007	26 Aug 2007	28 May 2003
Regulations on Contracting Foreign Engineering Projects	7 May 2008	1 Sept 2008	
Advertisement Law	27 Oct 1994	1 Feb 1995	
Rules on Administration of Foreign-invested Advertising Enterprises	2 Mar 2004 <sup>a</sup>	2 Mar 2004	
Regulations on Administration of Travel Agencies	11 Dec 2001 <sup>a</sup>	1 Jan 2002	
Regulations on Administration of Tourist Guides	14 May 1999 <sup>a</sup>	1 Oct 1999	
Provisional Rules on the Establishment of Travel Agencies with Majority Foreign Equity and Solely Foreign Investment	12 June 2003 <sup>a</sup>	12 July 2003	
Law on Entry and Exit of Aliens	22 Nov 1985	1 Feb 1986	
Regulations on Administration of Foreign Law Firms' Representative Offices in China		1 Jan 2002	19 Dec 2001

Table AII.1 (cont'd)

Legislation (comment)	Adoption of latest amendment	Entry into effect	Date of first adoption
Provision of the Ministry of Justice on the implementation of Regulations on Administration of Foreign Law Firms' Representative Offices in China	2 Sep 2004	2 Sep 2004	4 July 2002
Regulations on the Administration of Commercial Franchise	31 Jan 2007	1 May 2007	
<b>Others</b>			
Constitution	14 Mar 2004	14 Mar 2004	4 Dec 1982
Organic Law of the State Council	10 Dec 1982	10 Dec 1982	
Organic Law of the Local People's Congress and Local People's Government at Different Levels	27 Oct 2004	27 Oct 2004	
Criminal Procedure Law	17 Mar 1996	1 Jan 1997	1 July 1979
Civil Procedure Law	28 Oct 2007	1 April 2008	1 Oct 1982
Administrative Procedure Law	4 Apr 1989	1 Oct 1990	
Law on the Procedure of the Conclusion of Treaties	28 Dec 1990	28 Dec 1990	
Legislation Law	15 Mar 2000	1 July 2000	
Regulations on Procedures for the Formulation of Administrative Regulations	16 Nov 2001 <sup>a</sup>	1 Jan 2002	
Employment Promotion Law	30 Aug 2007	1 Jan 2008	
Anti-Monopoly Law	30 Aug 2007	1 Aug 2008	
Provisions on Thresholds for Prior Notification of Concentration of Undertakings	1 Aug 2008	3 Aug 2008	
Labour Contract Law	29 Jun 2007	1 Jan 2008	
Property Law	16 Mar 2007	1 Oct 2007	
Provisions on the Administrative Punishment of Price-related Violations	9 Jan 2008	9 Jan 2008	10 Jul 1999
Regulation on Disclosure of Government Information	17 Jan 2008	1 May 2008	
Regulations on Procedures for the Formulation of Rules	16 Nov 2001 <sup>a</sup>	1 Jan 2002	
Regulations on Submission of Regulations and Rules for the Record	14 Dec 2001 <sup>a</sup>	1 Jan 2002	
Decision of the Third Session of the Sixth National People's Congress on Authorizing the State Council to Formulate Interim Provisions or Regulations Concerning the Reform of the Economic Structure and the Open Policy	10 Apr 1985	10 Apr 1985	
Law Countering Unfair Competition	2 Sept 1993	1 Dec 1993	
Provisions of the State Council on Prohibiting of Imposition of Regional Blockage on Market Economic Activities	21 Apr 2001	21 Apr 2001	
Notice on Cleaning up Local Protectionism in Market Economy Activities (issuing authorities: MOFCOM, Ministry of Supervision, LAOSC, MOF, Ministry of Communications, SAT, AQSIQ)	18 June 2004	18 June 2004	
Administrative Permission Law	27 Aug 2003	1 July 2004	
Judges Law	30 June 2001	30 June 2001	28 Feb 1995
Labour Law	5 July 1994	1 Jan 1995	
Law on Administrative Reconsideration	29 Apr 1999	1 Oct 1999	
Company Law	27 Oct 2005	1 Jan 2006	29 Dec 1993
Pricing Law	29 Dec 1997	1 May 1998	
Regulation on Government Pricing	26 Dec 2001	1 Feb 2002	
Interim Provisions on Preventing the Acts of Price Monopoly	18 June 2003	1 Nov 2003	
Regulations on the Administration of Company Registration	18 Dec 2005	1 Jan 2006	
Law on the Protection of Consumer Rights and Interests	31 Oct 1993	1 Jan 1994	
Law on Enterprise Bankruptcy (Trial Implementation)	27 Aug 2006	1 Jan 2007	
Law on Industrial Enterprises Owned by the Whole People	13 Apr 1988	1 Aug 1988	
Law on Individual Proprietorship Enterprises	30 Aug 1999	1 Jan 2000	
Administrative Rules Governing the Registration of Individual Proprietorship Enterprises	13 Jan 2000 <sup>a</sup>	13 Jan 2000	
Law on Partnership Enterprises	27 Aug 2006	1 June 2007	
Administrative Regulations Governing the Registration of Partnership Enterprises	9 May 2007	1 June 2007	19 Nov 1997
Law on Promotion of Small and Medium-Sized Enterprises	29 June 2002	1 Jan 2003	

Table AII.1 (cont'd)

Legislation (comment)	Adoption of latest amendment	Entry into effect	Date of first adoption
Provisions on the Merger and Division of Enterprises with Foreign Investment	22 Nov 2001 <sup>a</sup>	22 Nov 2001	23 Sept 1999
Law on Bid Invitation and Bidding	30 Aug 1999	1 Jan 2000	
Rules for the Administration of Employment of Foreigners in China	22 Jan 1996	1 May 1996	
Administrative Regulations Governing The Registration of Legal Corporations	3 June 1988 <sup>a</sup>	1 July 1988	
Code of Corporate Governance for Listed Companies	9 Jan 2002	9 Jan 2002	
Several Opinions on Promoting the Reform, Opening and Steady Development of the Capital Market – State Council	31 Jan 2004	1 Feb 2004	
Contract Law	15 Mar 1999	1 Oct 1999	
Interim Regulations on Supervision and Management of Corporate State-owned Assets	13 May 2003	27 May 2003	
Provisional Measures on Transfer of State-Owned Property Rights in Enterprises	8 Jan 2004	1 Feb 2004	
Government Procurement Law of China	29 June 2002	1 Jan 2003	
Environmental Protection Law	26 Dec 1989	26 Dec 1989	
Law on Evaluation of Environmental Effects	28 Oct 2002	1 Sept 2003	
Marine Environment Protection Law	25 Dec 1999	1 Apr 2000	23 Aug 1982
Regulations on Administration of Collection and Utilization of Sewage Discharge Levies	2 Jan 2003 <sup>a</sup>	1 July 2003	
Trade Union Law	27 Oct 2001	27 Oct 2001	

a Date of promulgation.

Source: Information provided by the Chinese authorities.

**Table AII.2**  
**Principal notifications under WTO Agreements, December 2009**

Agreement	Requirement/content	Document symbol and date of latest notification
<b>Agreement on Agriculture</b>		
Articles 10 and 18.2	Table ES.1 – Export subsidies	G/AG/N/CHN/15, 10/08/2009
Article 18.2	Table MA.2 – Tariffs and other quotas	G/AG/N/CHN/16, 10/08/2009
Article 18.2	Table MA.1 – Administration of tariff quotas	G/AG/N/CHN/2, 25/09/2003
Article 18.2	Table DS.1 and appropriate supporting tables – Domestic support	G/AG/N/CHN/8, 31/03/2006
<b>Article XXIV of GATT 1994</b>		
Article XXIV:7 of GATT 1994 and Article V: 7(a) of GATS	Free Trade Agreement between China and New Zealand	WT/REG266/N/1 and S/C/N/491, 23/04/2009
Article XXIV:7 of GATT 1994 and Article V: 7(a) of GATS	Free Trade Agreement between China and Singapore	WT/REG262/N/1 and S/C/N/483, 04/03/2009
<b>Enabling clause – integration</b>		
Enabling clause	Framework agreement on comprehensive economic cooperation between ASEAN and China	WT/COMTD/N/20/Add.1, 26/09/2005
	China's accession to the Bangkok Agreement	WT/COMTD/N/19, 29/07/2004
	Amendment to the Bangkok Agreement	WT/COMTD/N/22, 27/07/2007
<b>Agreement on Implementation of GATT Article VI of the GATT 1994 (Anti-dumping)</b>		
Article 5.8	Time-period for determination of negligible import volumes	G/ADP/N/100/CHN, 20/10/2004
Article 16.4	Semi-annual reports of anti-dumping actions (taken within the preceding six months)	G/ADP/N/188/CHN, 09/09/2009
Article 18.5, and Article 32.6 Agreement on Subsidies and Countervailing Measures	Decree of the Ministry of Commerce concerning Publication of Rules on Information Access and Information Disclosure in Industry Injury Investigations No. 19, 2006	G/ADP/N/1/CHN/2/Suppl.6, 19/10/2007
	Rules of the Supreme People's Court on Certain Issues Related to Application of Law in hearings of Antidumping Administrative Cases	G/ADP/N/1/CHN/2/Suppl.5, 11/01/2007
	Notification of the newly amended Foreign Trade Law	G/SCM/N/1/CHN/1/Suppl.4 G/ADP/N/1/CHN/2/Suppl.4 G/SG/N/1/CHN/2/Suppl.4, 01/12/2004
	Names of laws and regulations relevant to the Agreement	G/ADP/N/1/CHN/1, 31/05/2002
	Regulations on anti-dumping	G/ADP/N/1/CHN/2/Suppl.3, 20/10/2004
	Provisional rules on initiation of anti-dumping investigation	G/ADP/N/1/CHN/2/Suppl.1, 18/02/2003
	Rules on anti-dumping investigations and determinations of industry injury; rules on public hearings with regard to investigations of injury to industry	G/ADP/N/1/CHN/2/Suppl.2, 14/04/2003
Articles 16.5, and Article 25.12, Agreement on Subsidies and Countervailing Measures	Notification of competent authority	G/ADP/N/14/Add.22 G/SCM/N/18/Add.22, 10/10/2006
<b>Agreement on Implementation of Article VII of the GATT 1994 (Customs valuation)</b>		
Article 22.2	Administrative measure regarding customs valuation	G/VAL/N/1/CHN/5, 11/04/2008
	Regulations on import and export duties	G/VAL/N/1/CHN/4, 07/06/2004
	Notification of the customs regulations regarding determination of customs value of royalties and licence fees related to imports	G/VAL/N/1/CHN/3, 24/09/2003
	Customs law	G/VAL/N/1/CHN/2, 16/06/2003
	Customs administration regarding determination of customs valuation of imports and exports	G/VAL/N/1/CHN/1, 05/07/2002

Table AII.2 (cont'd)

Agreement	Requirement/content	Document symbol and date of latest notification
Decision on the checklist of issues	Checklist of issues	G/VAL/N/2/CHN/1, 05/07/2002
<b>General Agreement on Tariffs and Trade (GATT) 1994</b>		
Article XVII:4(a)	Notification of the understanding on the interpretation of Article XVII, on State-trading	G/STR/N/9/CHN/Add.1, 14/07/2003, and Corr.1
Article VII	Notifications on the valuation of carrier media-bearing software for data processing equipment, and on the treatment of interest charges in customs value of imported goods	G/VAL/N/3/CHN/1, 27/02/2004
<b>General Agreement on Trade in Services</b>		
Article III:3	Significant changes Notifications in 2009 = 12	No notifications in 2008 S/C/N/522-527, 529-534
Article III:4 and IV:2	Contact and enquiry points	S/ENQ/78/Rev.11, 26/10/2009
Article V:7 (a) of GATS and Article XXIV: 7(a) of the GATT 1994	Closer economic partnership arrangement between China and Hong Kong, China	S/C/N/264/Add.3 WT/REG162/N/1/Add.3, 18/09/2009
	Closer economic partnership arrangement between China and Macao, China	S/C/N/265/Add.3 WT/REG163/N/1/Add.3, 07/08/2009
Paragraph 14 of the Transparency Mechanism for Regional Trade Agreements (WT/L/671) and Article V:7 (a) of GATS	Supplement VI to the Closer economic partnership agreement between China and Hong Kong, China and Supplement to the Closer economic partnership agreement between China and Macao, China	WT/REG162/N/1/Add.3 S/C/N/264/Add.3, 18/09/2009 WT/REG163/N/1/Add.1 S/C/N/265/Add.1, 21/12/2007
Article VII: 4	Existing Article VII:1 recognition measures	None
<b>Agreement on Preshipment Inspection</b>		
Article 5	Notification of laws and regulations related to the Agreement	None
<b>Agreement on Import Licensing Procedures</b>		
Articles 1.4(a) and 8.2(b)	Rules and measures on import licensing and import quotas	G/LIC/N/1/CHN/1, 20/09/2002 G/LIC/N/1/CHN/1/Add.1, 23/09/2002 G/MA/W/41, 23/09/2002
Article 8.2(b)	Notification of rules and measures on import quota for various products Products subject to import licence (2004)	G/LIC/N/1/CHN/2, 25/09/2003 G/LIC/N/1/CHN/4, 17/01/2005
	Notification of regulations and rules on import licensing	G/LIC/N/1/CHN/4, 17/01/2005, G/LIC/N/1/CHN/5, 20/03/2006
Article 7.3	Replies to questionnaire on import licensing procedures	G/LIC/N/3/CHN/8, 20/10/2009
<b>Quantitative Restrictions</b>		
QR - (G/L/59) - biennial	Notification of quantitative restrictions	G/MA/NTM/QR/1/Add.11, 11/04/2008
<b>Agreement on Rules of Origin</b>		
Article 5 and Paragraph 4 of Annex II	Preferential rules of origin	G/RO/N/37/Rev.1, 02/08/2002
<b>Agreement on Safeguards</b>		
Article 12.1(a) - (c), and Article 9.1 footnote 2	Safeguard investigations, findings, and decisions	G/SG/N/10/CHN/1/Suppl.1, 04/02/2004
Article 12.4	Consultations	G/SG/N/11/CHN/1; G/SG/N/6/CHN/1; G/SG/N/7/CHN/1, 23/05/2002
Article 12.5 and Article 8.2	Notification of proposed suspension of concessions and other obligations referred to in Article 8.2 of the Agreement on Safeguards.	G/C/17; G/SG/46, 21/05/2002
Article 12.6	Notification of laws, regulations and administrative procedures relating to safeguard measures	G/SG/N/1/CHN/1, 07/06/2002
	Regulations on Safeguards	G/SG/N/1/CHN/2/Suppl.3, 20/10/2004

Table AII.2 (cont'd)

Agreement	Requirement/content	Document symbol and date of latest notification
	Rules on investigations and determinations of industry injury for safeguards; rules on public hearings with regard to investigations of injury to industry	G/SG/N/1/CHN/2/Suppl.2, 15/04/2003
<b>Agreement on the Application of Sanitary and Phytosanitary Measures</b>		
Article 7 and Annex B	Enquiry points	G/SPS/ENQ/25, 15/10/2009
<b>Agreement on Subsidies and Countervailing Measures</b>		
Article 25.1	Notification of subsidies	G/SCM/N/123/CHN, 13/04/2006
Article 25.11	Semi-annual report on countervailing duty actions	G/SCM/N/195, 09/09/2009
Article 32.6	Notification of the amended Foreign Trade Law	G/SG/N/1/CHN/2/Suppl.4, 01/12/2004
	Regulations on countervailing measures	G/SCM/N/1/CHN/1/Suppl.3, 20/10/2004
	Rules on investigations and determinations of industry injury for countervailing measures; rules on public hearings with regard to investigations of injury to industry	G/SCM/N/1/CHN/1/Suppl.2, 14/04/2003
	Provisional rules on countervailing investigations	G/SCM/N/1/CHN/1/Suppl.1, 18/02/2003
Article 18 of the Protocol of Accession of the People's Republic of China	Information on pricing policies	G/SCM/N/198, 05/10/2009
<b>Agreement on Technical Barriers to Trade (TBT)</b>		
Annex 3C	Acceptance of code of good practice	G/TBT/CS/N/143, 21/05/2002 G/TBT/CS/N/138, 12/12/2001 and Corr.1, 30/01/2003
Article 15.2	Laws and regulations on the implementation and administration of the TBT Agreement	G/TBT/2/Add.65, 29/01/2002
Article 2.10	Notification regarding environmental measures, technical barriers and technical regulations	G/TBT/N/CHN/62, 19/11/2004
Article 2.9	Notification of technical regulations: Notifications in 2009 = 199 Notifications in 2008 = 184	G/TBT/N/CHN/514-648, 650-713 G/TBT/N/CHN/329-398, 400-513
Article 5.6	Notification of products covered by conformity assessment procedure	G/TBT/N/CHN/399, 24/06/2008, G/TBT/N/CHN/497, 21/11/2008, G/TBT/N/CHN/649, 19/06/2009
Article 5.7	Notification of regulations issued to protect the environment	G/TBT/N/CHN/56-58, 14/07/2004
<b>Agreement on Trade-Related Aspects of Intellectual Property Rights</b>		
Article 63.2	Amending the Rules for the Implementation of the Patent Law	IP/N/1/CHN/I/3, 13/10/2003
	Regulations for the Implementation of the Trademark Law	IP/N/1/CHN/T/2, 13/10/2003 IP/N/1/CHN/T/1, 08/07/2002
	Laws and regulations	IP/N/1/CHN/2, 10/10/2003 IP/N/1/CHN/2/Add.1, 25/08/2004
	Checklist of issues on enforcement	IP/N/6/CHN/1, 19/07/2002
	Regulations on computer software protection	IP/N/1/CHN/C/2/Rev.1, 13/10/2003
	Regulations on protection of new varieties of plants	IP/N/1/CHN/P/1, 08/07/2002
Article 69	Contact points	IP/N/3/Rev.9/Add.1, 31/01/2006
<b>Agreement on Trade-Related Investment Measures</b>		
Article 6.2	Publications	G/TRIMS/N/2/Rev.19, 30/09/2009

Source: WTO documents.



**Table AII.3**  
**Involvement in the WTO dispute settlement mechanism, December 2009**

Dispute	Complainant (WTO document)	Request for consultation	Panel established	Panel report circulated
<b>China as respondent</b>				
Measures affecting imports of automobile parts	European Union (WT/DS339/1)	30/03/2006	26/10/2006	18/07/2008
Measures affecting imports of automobile parts	United States (WT/DS340/1)	30/03/2006	26/10/2006	18/07/2008
Measures affecting imports of automobile parts	Canada (WT/DS342/1)	13/04/2006	26/10/2006	18/07/2008
Measures affecting the protection and enforcement of intellectual property rights	United States (WT/DS362/1)	10/04/2007	25/09/2007	26/01/2009
Measures affecting trading rights and distribution services for certain publications and audiovisual entertainment products	United States (WT/DS363/1)	10/04/2007	27/11/2007	12/08/2009
Measures affecting financial information services and foreign financial information suppliers <sup>a</sup>	European Union (WT/DS372/1)	03/03/2008		
Measures affecting financial information services and foreign financial information suppliers <sup>a</sup>	United States (WT/DS373/1)	03/03/2008		
Grants, loans and other incentives	Mexico (WT/DS388/1)	19/12/2008		
Grants, loans and other incentives	Guatemala (WT/DS390/1)	19/01/2009		
Measures related to the exportation of various raw materials	United States (WT/DS394/1)	23/06/2009		
Measures related to the exportation of various raw materials	European Union (WT/DS395/1)	23/06/2009		
Measures related to the exportation of various raw materials	Mexico (WT/DS/398/1)	21/08/2009		
<b>China as complainant</b>				
Preliminary anti-dumping and countervailing duty determinations on coated free sheet paper from China	(WT/DS368/1)	14/09/2007		
Definitive Anti-Dumping and Countervailing Duties on Certain Products from China	(WT/DS379/1)	19/09/2008	20/01/2009	
Certain Measures Affecting Imports of Poultry from China	(WT/DS392/1)	17/04/2009		
Definitive Anti-Dumping Measures on Certain Iron or Steel Fasteners from China	(WT/DS397/1)	31/07/2009		
Measures Affecting Imports of Certain Passenger Vehicle and Light Truck Tyres from China	(WT/DS399/1)	14/09/2009		
<b>China as a third party</b>				
United States — Continued Suspension of Obligations in the EC — Hormones Dispute	European Union (WT/DS320/1)	08/11/2004	17/02/2005	31/03/2008
Canada — Continued Suspension of Obligations in the EC — Hormones Dispute	European Union (WT/DS321/1)	08/11/2004	17/02/2005	31/03/2008
United States — Measures Relating to Zeroing and Sunset Reviews	Japan (WT/DS322/1)	24/11/2004	28/02/2005	20/06/2006
Brazil — Measures affecting imports of retreaded tyres	European Union (WT/DS332/1)	20/06/2005	20/01/2006	12/06/2007

Table AII.3 (cont'd)

Dispute	Complainant (WTO document)	Request for consultation	Panel established	Panel report circulated
Japan — Countervailing duties on dynamic random access memories from Korea	Korea (WT/DS336/1)	14/03/2006	19/06/2006	13/07/2007
European Union — Anti-dumping measure on farmed salmon from Norway	Norway (WT/DS337/1)	17/03/2006	22/06/2006	16/11/2007
Mexico — Definitive countervailing measures on olive oil from the European Union	European Union (WT/DS341/1)	31/03/2006	23/01/2007	04/09/2008
United States — Measures relating to shrimp from Thailand	Thailand (WT/DS343/1)	24/04/2006	26/10/2006	29/02/2008
United States — Final anti-dumping measures on stainless steel from Mexico	Mexico (WT/DS344/1)	26/05/2006	26/10/2006	20/12/2007
United States — Customs bond directive for merchandise subject to anti-dumping/countervailing duties	India (WT/DS345/1)	06/06/2006	21/11/2006	29/02/2008
United States — Continued existence and application of zeroing methodology	European Union (WT/DS350/1)	02/10/2006	04/06/2007	01/10/2008
United States — Measures affecting trade in large civil aircraft — second complaint	European Union (WT/DS353/1)	27/06/2005	17/02/2006	
Colombia – Indicative prices and restrictions on ports of entry	Panama (WT/DS366/1)	12/07/2007	22/10/2007	27/04/2009

a On 4 December 2008, the complainant and the respondent informed the DSB that they had reached an agreement in relation to this dispute in the form of a Memorandum of Understanding.

Source: WTO Secretariat.

**Table AIII.1**  
**China's preferential rules of origin, 2009**

Agreement/Party	Rules
APTA	<p>Wholly produced or obtained in the country; or</p> <p>The value of non-originating parts or components used in the manufacture must be less than 55% of the f.o.b. value of the product (or 65% for LDCs); or</p> <p>Cumulation allowed, i.e., cumulation in terms of materials and components between the Parties must be no lower than 60% of the f.o.b. value of the product (50% for LDCs); and</p> <p>The country of origin is defined as the country where the last manufacturing operation takes place;</p> <p>Goods must enter China directly.</p>
ASEAN	<p>Wholly produced or obtained in ASEAN countries; or</p> <p>The content of products originating in any one of the ASEAN countries should be no less than 40% of total content; or</p> <p>The value of the non-originating parts or components used in the manufacture of the products must be no more than 60% of the f.o.b. value of the product;</p> <p>The country of origin is defined as the country where the last manufacturing operation takes place;</p> <p>Goods must enter China directly.</p>
Least developed countries	<p>Products must be wholly originated in the country of origin; or</p> <p>The non-originating parts must have undergone substantial transformation. "Substantial transformation" means change of tariff heading or the value of non-originating parts used in the manufacture of the good do not exceed 60% of the f.o.b. value of the product;</p> <p>The final stage of processing must be in the country of origin; and</p> <p>Goods must enter China directly.</p>
Hong Kong, China	<p>No single rule of origin methodology</p> <p>Product specific criteria:</p> <ul style="list-style-type: none"> <li>- wholly obtained or entirely produced in Hong Kong, China;</li> <li>- a change of tariff heading;</li> <li>- a regional value content (RVC) of equal or more than 30%.</li> </ul> <p>The final stage of processing must be carried out in Hong Kong, China.</p> <p>Goods must enter China directly.</p>
Macao, China	<p>No single rule of origin methodology.</p> <p>Product specific criteria:</p> <ul style="list-style-type: none"> <li>- wholly obtained or entirely produced in Macao, China;</li> <li>- a change of tariff heading;</li> <li>- a regional value content(RVC) of equal or more than 30%.</li> </ul> <p>The final stage of processing must be carried out in Macao, China.</p> <p>Goods must enter China directly.</p>
Chile	<p>No single rule of origin methodology.</p> <p>Product specific criteria:</p> <ul style="list-style-type: none"> <li>- wholly obtained or entirely produced in Chile;</li> <li>- for most agricultural goods, a change of HS Chapter applies (for Ch. 17-19 a change of heading is required);</li> <li>- in 49 HS Chapters, a regional value content (RVC) of 50% applies;</li> <li>- if no product-specific rule, a RVC of 40% applies.</li> </ul> <p>Bilateral cumulation allowed, i.e., cumulation in terms of materials between the Parties.</p> <p>Tolerance rule: non-originating materials can represent a maximum of 8% of the f.o.b. value of product.</p> <p>Transit through third parties authorized only under certain conditions.</p>

**Table AIII.1 (cont'd)**

Agreement/Party	Rules
New Zealand	<p>No single rule of origin methodology.</p> <p>Product specific criteria:</p> <ul style="list-style-type: none"> <li>- wholly obtained or entirely produced in New Zealand; or</li> <li>- a change of tariff heading applies (at HS 4-digit or 6-digit level);</li> <li>- regional value content of 30%, 40%, 45%, or 50% applies to some products.</li> </ul> <p>Bilateral cumulation allowed, i.e., cumulation in terms of materials between the Parties.</p> <p>Tolerance rule: non-originating materials can represent a maximum of 10% of the f.o.b. value of product.</p> <p>Goods must enter China directly.</p>
Pakistan	<p>A single rule of origin methodology – minimum local value content of 40%: wholly produced or obtained in Pakistan, or the content of the product originating in Pakistan should be no less than 40% of total content.</p> <p>Bilateral cumulation allowed, i.e., cumulation in terms of materials and components between the Parties.</p> <p>No tolerance rule.</p> <p>Outward processing not authorized, i.e., the final stage of processing must be carried out in Pakistan.</p> <p>Goods must enter China directly, and transit through third parties authorized only under certain conditions.</p>
Singapore	<p>Wholly produced or obtained in Singapore; or</p> <p>A regional value content of 40% applies;</p> <p>Bilateral cumulation allowed, i.e., cumulation in terms of materials and components between the Parties;</p> <p>Tolerance rule: non-originating materials can represent a maximum of 10% of the f.o.b. value of product;</p> <p>In addition, goods must enter China directly</p>
Peru	<p>Wholly produced or obtained in Peru; or</p> <p>A change in tariff heading applies (at HS 4-digit or 6-digit level);</p> <p>Bilateral cumulation allowed, i.e., cumulation in terms of materials and components between the Parties;</p> <p>Tolerance rule: non-originating materials can represent a maximum of 10% of the value of product (pursuant to regional value content);</p> <p>In addition, goods must enter China directly;</p> <p>Transit through third parties authorized only under certain conditions.</p>

*Source:* Customs online decrees; information provided by the authorities; WTO documents (WT/REG237/1, 1 December 2008; and WT/REG230/1, 23 April 2008); and MOFCOM online information. Viewed at: [http://fta.mofcom.gov.cn/bilu/bilu\\_hwmy.shtml#](http://fta.mofcom.gov.cn/bilu/bilu_hwmy.shtml#) [24.11.2009].

**Table AIII.2**  
**Imports allocated to state-trading enterprises, 2007-09**

Product	HS Code	Per cent of import quota		
		2007	2008	2009
Wheat	10011000; 10019010; 10019090; 11010000; 11031100; 11032010	90	90	90
Maize	10051000; 10059000; 11022000; 11031300; 11042300	60	60	60
Rice	10061011; 10061019; 10061091; 10061099; 10062010; 10062090; 10063010; 10063090; 10064010; 10064090; 11023010; 11023090; 11031921; 11031929	50	50	50
Sugar	17011100; 17011200; 17019100; 17019910; 17019920; 17019990	70	70	70
Cotton	52010000; 52030000	33	33	33
Urea	31021000	90	90	90
NPK	31052000	60	55	51
Diammonium phosphate	31053000	60	55	55
Other chemical fertilizers <sup>a</sup>	31022100; 31022900; 31023000; 31024000; 31025000; 31026000; 31027000; 31028000; 31029000; 31031000; 31032000; 31039000; 31041000; 31042010; 31042090; 31043000; 31049000; 31051000; 31054000; 31055100; 31055900; 31056000; 31059000	n.a.	n.a.	n.a.
Tobacco	55020010; 56012210; 24011010; 24011090; 24012010; 24012090; 24013000; 24021000; 24022000; 24029000; 24031000; 24039100; 24039900; 48131000; 48132000; 48139000; 84781000; 84789000	n.a.	n.a.	n.a.
Crude oil	27090000	n.a.	n.a.	n.a.
Processed oil	27101110; 27101120; 27101191; 27101911; 27101912; 27101921; 27101929; 27101922	n.a.	n.a.	n.a.
Rapeseed oil	15141100; 15141900; 15149110; 15149190; 15149900	Temporarily abolished since 1 January 2006		
Soybean oil	15071000; 15079000	Temporarily abolished since 1 January 2006		
Palm oil	15111000; 15119010; 15119090	Temporarily abolished since 1 January 2006		

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

Source: Information provided by the authorities.

**Table AIII.3**  
**Import and export quantities for products subject to state-trading arrangement, 2006-08**  
(10,000 tonnes)

	2006	2007	2008
<b>IMPORTS</b>			
<b>Grain (wheat, maize, rice)</b>			
Domestic output	48,401	49,746	50,150
Import quantity	140.8	62.4	42.3
Imported by State-trading enterprises (STEs)	25.9	4.4	3.2
Imported by non STEs	114.9	58	39.1
<b>Sugar</b>			
Domestic output	881.5	1,199.4	1,484
Import quantity	136.5	119.3	78
Imported by State-trading enterprises (STEs)	78.15	60.95	52.7
Imported by non STEs	58.35	58.35	25.3
<b>Crude oil</b>			
Domestic output	18,367	18,666	18,973
Import quantity	14,518	16,318	17,889
Imported by State-trading enterprises (STEs)	13,068	14,648	15,974
Imported by non STEs	1,450	1,670	1,915
<b>Processed oil</b>			
Domestic output	18,205	19,517	20,836
Import quantity	3,638	3,380	3,885
Imported by State-trading enterprises (STEs)	2,833	2,455	2,820
Imported by non STEs	805	925	1,065
<b>Chemical fertilizers</b>			
Domestic output	5,593	5,787	5,868
Import quantity	621	644	343
Imported by State-trading enterprises (STEs)	559	580	290
Imported by non STEs	62	64	53
<b>Cotton</b>			
Domestic output	570	673	760
Import quantity	364.3	245.9	211.1
Imported by State-trading enterprises (STEs)	31.6	41.2	48
Imported by non STEs	332.7	204.7	163.1
<b>Tobacco</b>			
Domestic output	207	202	251
Import quantity	..	..	..
Imported by State-trading enterprises (STEs)	..	..	..
Imported by non STEs	0	0	0
<b>Vegetable oil (rapeseed oil, soybean oil, and palm oil)</b>			
Domestic output	1,096	1,028	1,083
Import quantity	574.3	758.5	750.3
<b>EXPORTS</b>			
<b>Rice</b>			
Domestic output	18,171.8	18,603.4	19,189.6
Export quantity (all by STEs)	123.7	132.6	96.9
<b>Maize</b>			
Domestic output	15,160.3	15,230.0	16,591.4
Export quantity (all by STEs)	307	491.4	25.3

Table AIII.3 (cont'd)

	2006	2007	2008
<b>Tungsten ore and products</b>			
Domestic output	8.0	8.0	8.4
Export quantity (all by STEs)	2.8	2.5	2.2
<b>Coal</b>			
Domestic output	237,300	252,600	278,800
Export quantity (all by STEs)	6,329.7	5,316.7	4,543.3
<b>Crude oil</b>			
Domestic output	18,367	18,666	18,973
Export quantity (all by STEs)	633.7	382.9	373.6
<b>Processed oil</b>			
Domestic output	18,205	19,517	20,836
Export quantity (all by STEs)	1,235	1,551	1,703.8
<b>Cotton</b>			
Domestic output	570	673	760
Export quantity (all by STEs)	1.3	2.1	1.6
<b>Antimony ore and products</b>			
Domestic output	15.01	15.5	..
Export quantity (all by STEs)	7.57	6.05	6.19
<b>Silver</b>			
Domestic output	0.825	0.9091	0.9587
Export quantity (all by STEs)	0.4712	0.4677	0.4186
<b>Tobacco</b>			
Domestic output	207	202	251
Export quantity (all by STEs)	10.81	12.03	11.61

.. Not available.

Note: The coverage of domestic output is different from that of import/export quantity, as the former is not based on Customs HS code.

Source: Information provided by the authorities.

**Table AIII.4**  
**Export products subject to state-trading arrangements, 2009**

<b>Product (HS code)</b>	<b>Enterprises</b>
<b>Rice</b>	
10061011; 10061019; 10061091; 10061099; 10062010; 10062090; 10063010; 10063090; 10064010; 10064090	China National Cereals, Oil and Foodstuffs Import & Export Co. (renamed as COFCO in April 2007); and Jilin Grain Group Import & Export Co. Ltd.
<b>Maize</b>	
10051000; 10059000; 11042300	China National Cereals, Oil and Foodstuffs Import & Export Co. (renamed as COFCO in April 2007); and Jilin Grain Group Import & Export Co. Ltd.
<b>Cotton</b>	
52010000; 52030000	Chinatex Cotton Import and Export Co.; Xinjiang Uygur Autonomous Region Cotton and Jute Import and Export Co.; Xinjiang Nong Ken Import and Export Co. Ltd.; and China National Cotton Reserve Corporation
<b>Coal</b>	
27011100; 27011210; 27011290; 27011900; 27021000	China National Coal Group Corporation; Shanxi Coal Import and Export Group Corporation; Shenhua Group Corporation Ltd.; and China Metals and Minerals Import and Export Co.
<b>Crude oil</b>	
27090000	SINOCHEM Corporation; China Petroleum and Chemical (SINOPEC) Corporation; and China National Petroleum Corporation
<b>Processed oil</b>	
27101110; 27101120; 27101191; 27101199; 27101911; 27101912; 27101919; 27101921; 27101929; 27101991; 27101992; 27101993; 27111100	SINOCHEM Corp.; China Petroleum and Chemical (SINOPEC) Corporation; and China National Petroleum Corporation
<b>Tungsten ore and products</b>	
26110000; 26209910; 28418010; 28418040; 28259012; 28259019; 28259011; 28418020; 28418030; 28499020; 81011000; 81019400; 81019700	STEs listed in MOFCOM Announcement No. 106 of 2008
<b>Antimony ore and products</b>	
26171010; 26171090; 26171000; 28258000; 81101010; 81101020; 81102000; 81109000	STEs listed in MOFCOM Announcement No. 106 of 2008
<b>Silver</b>	
71061011; 71061019; 71061021; 70161029; 71069110; 71069190; 71069210; 71069290	STEs listed in MOFCOM Announcement No. 106 of 2008
<b>Tobacco</b>	
55020010; 24011010; 24011090; 24012010; 24012090; 24013000; 24021000; 24022000; 24029000; 24031000; 24039100; 24039900; 48131000; 48132000; 48139000; 56012210; 84781000; 84789000	STEs listed in MOFTEC Announcement No. 44 of 2001 ( <a href="http://www.mofcom.gov.cn/aarticle/b/c/200404/20040400210082.html">http://www.mofcom.gov.cn/aarticle/b/c/200404/20040400210082.html</a> )
<b>Tea</b>	
09021010; 09021090; 09022010; 09022090	State trading temporarily abolished since 2006
<b>Soybeans</b>	
12010010; 12010091; 12010092; 12010093; 12010099	China has not applied state trading since it joined the WTO

Table AIII.4 (cont'd)



Product (HS code)	Enterprises
<b>Silk</b> 50010010; 50010090; 50020011; 50020012; 50020013; 50020019; 50020020; 50020090; 50031000; 50039000; 50040000; 50050010; 50050090	State trading temporarily abolished since 2005
<b>Unbleached silk</b>  50071010; 50072011; 50072021; 50072031	China has not applied state trading since it joined the WTO
<b>Cotton sewing thread</b>  52041100; 52051100; 52051200; 52051300; 52051400; 52051500; 52052100; 52052200; 52052300; 52052400; 52052600; 52053100; 52053200; 52053300; 52053400	China has not applied state trading since it joined the WTO

*Source:* Information provided by the authorities.

**Table AIII.5**  
**Excise (or consumption) tax, 2008-09**

Product	2008	2009
<b>Tobacco<sup>a</sup></b>		
Cigars	25%	36%
Cigarettes:		
Production procedure		
Cigarettes, if the price is higher than Y 70 per carton	45% plus Y 0.003 per cigarette	56% plus Y 0.003 per cigarette
Cigarettes, if the price is lower than Y 70 per carton	30% plus Y 0.003 per cigarette	36% plus Y 0.003 per cigarette
Wholesaling procedure	5%	5%
Some tobacco products	30%	30%
<b>Alcoholic drinks and alcohol</b>		
White spirit distilled from grain, potatoes, or grapes	20% plus Y 1 per kg	20% plus Y 1 per kg
Yellow rice wine	Y 240 per tonne	Y 240 per tonne
Beer made from malt, and of a value over or equal to US\$370 per tonne	Y 250 per tonne	Y 250 per tonne
Beer made from malt, and of a value less than US\$370 per tonne	Y 220 per tonne	Y 220 per tonne
Other fermented beverages	10%	10%
Ethyl alcohol	5%	5%
<b>Some cosmetics (apart from skin-care products)</b>	30%	30%
<b>Precious jewellery, pearls, jade and precious stone</b>		
Gold, silver, platinum jewellery, and diamonds	5%	5%
Pearls, jade, and precious stones	10%	10%
<b>Firecrackers and fireworks</b>	15%	15%
<b>Gasoline<sup>b</sup></b>		
Motor gasoline and aviation gasoline (containing lead more than 0.013 g per litre)	Y 0.28 per litre	Y 1.0 per litre
Motor gasoline and aviation gasoline (containing lead less than 0.013 g per litre)	Y 0.20 per litre	Y 1.4 per litre
Diesel oil	Y 0.1 per litre	Y 0.8 per litre
Aviation kerosene	Y 0.1 per litre	Y 0.8 per litre
Naphtha	Y 0.2 per litre	Y 1.0 per litre
Solvent	Y 0.2 per litre	Y 1.0 per litre
Lubricants	Y 0.2 per litre	Y 1.0 per litre
Fuel oil	Y 0.1 per litre	Y 0.8 per litre
<b>Motor vehicle tyres</b>	3%	3%
<b>Motorcycles</b>		
With a cylinder capacity less than or equal to 250 ml	3%	3%
With a cylinder capacity over 250 ml	10%	10%
<b>Motor vehicles<sup>c</sup></b>		
Passenger vehicles with less than 9 seats		
- with a cylinder capacity of less than 1,000 ml	3%	1%
- with a cylinder capacity of more than 1,000ml but less than 1,500 ml	3%	3%
- with a cylinder capacity of more than 1,500 ml, but less than 2,000 ml	5%	5%
- with a cylinder capacity of more than 2,000 ml, but less than 2,500 ml	9%	9%

Table AIII.5 (cont'd)

Product	2008	2009
- with a cylinder capacity of more than 2,500 ml, but less than 3,000 ml	12%	12%
- with a cylinder capacity of more than 3,000 ml, but less than 4,000 ml	15%	25%
- with a cylinder capacity of 4,000 ml or more	20%	40%
Middle-size or light passenger vehicles for commercial purposes	5%	5%
<b>Some boats</b>	10%	10%
<b>Some luxury watches, with a unit price higher than Y 10,000</b>	20%	20%
<b>Golf clubs, balls, and other golf equipment</b>	10%	10%
<b>Floor boards</b>	5%	5%
<b>Disposable chopsticks</b>	5%	5%

- a Consumption tax rates for tobacco products were revised from 1 May 2009.  
b Consumption tax rates for gasoline products were revised from 1 January 2009.  
c Consumption tax rates for some motor vehicles were revised from 1 September 2008.

Source: Information provided by the authorities.

**Table AIII.6**  
**International trade, processing trade, and shares of FIEs, 2007-09**  
(US\$ billion, unless otherwise indicated)

	2007	2008	2009	Growth rate 2008/07 (%)	Growth rate 2009/08 (%)
<b>Total exports</b>	1,220.5	1,430.7	1,201.7	17.2	-16.0
Processed exports	617.6	675.1	587.0	9.3	-13.1
Share of processing trade in total exports (%)	50.6	47.2	48.8	n.a.	n.a.
Exports of FIEs	695.4	790.5	672.2	13.7	-15.0
Share in total exports (%)	57.0	55.3	55.9	n.a.	n.a.
Processed exports in FIEs	521.5	572.2	493.7	9.7	-13.7
Share in FIEs' total exports (%)	75.0	72.4	73.4	n.a.	n.a.
Share of FIEs processed exports in total processed exports (%)	84.4	84.8	84.1	n.a.	n.a.
<b>Total imports</b>	956.1	1,132.6	1,005.6	18.5	-11.2
Processed imports	368.5	378.4	322.3	2.7	-14.8
Share of processing trade in total imports (%)	38.5	33.4	32.1	n.a.	n.a.
Imports of FIEs	559.8	619.4	545.2	10.7	-12.0
Share in total imports (%)	58.5	54.7	54.2	n.a.	n.a.
Processed imports in FIEs	309.7	318.4	270.8	2.8	-15.0
Share in FIEs' total imports (%)	55.3	51.4	49.7	n.a.	n.a.
Share of FIEs processed imports in total processed imports (%)	84.0	84.2	84.0	n.a.	n.a.

n.a. Not applicable.

Source: National Bureau of Statistics of China, *Statistical Yearbook 2009*; and General Administration of Customs, *China's Customs Statistics* (various issues).

**Table AIII.7**  
**China's membership of international intellectual property rights conventions, 2009**

Convention	Status	Date of accession
Berne Convention for the Protection of Literary and Artistic Works	In force	15 Oct. 1992
Budapest Treaty on the International Recognition of the Deposit of Micro-Organisms for the Purposes of Patent Procedures	In force	1 July 1995
Convention Establishing WIPO	In force	3 June 1980
Convention for the Protection of Producers of Phonographs Against Unauthorized Duplication of their Phonograms	In force	30 April 1993
International Convention for the Protection of New Varieties of Plants (UPOV Convention)	In force	23 April 1999
Locarno Agreement Establishing an International Classification for International Design	In force	19 Sept. 1996
Madrid Agreement Concerning International Registration of Marks	In force	4 Oct. 1989
Protocol Relating to the Madrid Agreement concerning the International Registration of Marks	In force	1 Dec. 1995
Nice Agreement Concerning the International Classification of Goods and Services for the Purpose of the Registration of Marks	In force	9 August 1994
Paris Convention for the Protection of Industrial Property	In force	19 March 1985
Patent Co-operation Treaty	In force	1 Jan. 1994
Singapore Treaty	Signature	
Strasbourg Agreement Concerning International Patent Classification	In force	19 June 1997
Trademark Law Treaty (TLT)	Signature	
Washington Treaty on Intellectual Property in respect of Integrated Circuits	Signature	
WIPO Copyright Treaty	In force	9 June 2007
WIPO Performances and Phonograms Treaty	In force	9 June 2007

Source: WIPO online information. Viewed at: [http://www.wipo.int/treaties/en/ShowResults.jsp?country\\_id=38C&start\\_year=ANY&end\\_year=ANY&search\\_what=C&treaty\\_all=ALL](http://www.wipo.int/treaties/en/ShowResults.jsp?country_id=38C&start_year=ANY&end_year=ANY&search_what=C&treaty_all=ALL) [25/02/09].

**Table AIII.8**  
**Patents applied and granted, 2007-08**

	2007	2008	% increase	% of total
	Total			
<b>Patent applications</b>	<b>694,153</b>	<b>828,328</b>	<b>19.3</b>	<b>100</b>
Domestic	586,734	717,144	22.2	86.6
Foreign	107,419	111,184	3.5	13.4
<b>Invention</b>	<b>245,161</b>	<b>289,838</b>	<b>18.2</b>	<b>35.0</b>
Domestic	153,060	194,579	27.1	67.1
Foreign	92,101	95,259	3.4	32.9
<b>Utility model</b>	<b>181,324</b>	<b>225,586</b>	<b>24.4</b>	<b>27.2</b>
Domestic	179,999	223,945	24.4	99.3
Foreign	1,325	1,641	23.8	0.7
<b>Design</b>	<b>267,668</b>	<b>312,904</b>	<b>16.9</b>	<b>37.8</b>
Domestic	253,675	298,620	17.7	95.4
Foreign	13,993	14,284	2.1	4.6
<b>Patent granted</b>	<b>351,782</b>	<b>411,982</b>	<b>17.1</b>	<b>100</b>
Domestic	301,632	352,406	16.8	85.5
Foreign	50,150	59,576	18.8	14.5
<b>Invention</b>	<b>67,948</b>	<b>93,706</b>	<b>37.9</b>	<b>22.7</b>
Domestic	31,945	46,590	45.8	49.7
Foreign	36,003	47,116	30.9	50.3
<b>Utility model</b>	<b>150,036</b>	<b>176,675</b>	<b>17.8</b>	<b>42.9</b>
Domestic	148,391	175,169	18.0	99.1
Foreign	1,645	1,506	-8.4	0.9
<b>Design</b>	<b>133,798</b>	<b>141,601</b>	<b>5.8</b>	<b>34.4</b>
Domestic	121,296	130,647	7.7	92.3
Foreign	12,502	10,954	-12.4	7.7

Source: SIPO online information. Viewed at: [http://www.sipo.gov.cn/sipo\\_English/statistics/](http://www.sipo.gov.cn/sipo_English/statistics/) [13/02/09].