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TRADE POLICY MONITORING REPORT

OF

CHINA

(JANUARY 2014 – MARCH 2014)

VOLUME XII

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ABBREVIATIONS

1) $	US Dollar
2) ABC	Agricultural Bank of China
3) AD	Anti-Dumping
4) C-4	WTO Members (4): Benin, Burkina Faso, Chad, Mali (West African coalition seeking cuts in cotton subsidies and tariffs issues : Agriculture)
5) CPC	Communist Part of China
6) CPLA	Chinese People's Liberation Army
7) DTA	Double Tax Avoidance
8) ECB	European Central Bank
9) EU	European Union
10) GAC	General Administration of Customs
11) ICSC	International Council of Shopping Centers
12) ITA	Information Technology Agreement
13) JCCT	Joint Commission on Commerce and Trade
14) MOFCOM	Ministry of Commerce
15) MOU	Memorandum of Understanding
16) NBS	National Bureau of Statistics
17) PBC	People's Bank of China
18) PRC	People's Republic of China
19) RMB	Renminbi (Chinese currency)
20) SIPO	State Intellectual Property Office
21) SPS	Sanitary and Phytosanitary
22) TBT	Technical Barriers to Trade
23) WTO	World Trade Organization

EXECUTIVE SUMMARY

ECONOMIC ENVIRONMENT:

- China's GDP grew by 7.3% in year-over-year terms in Q4 2014in the first quarter of 2014 which is a decline by 0.4% from the growth rate recorded in Q3 2013.
- The rate of unemployment in China remained unchanged at 4.1% during the quarter.
- China has recorded a Current Account surplus of 7200 mn USD during this quarter.
- Private analysts have raised serious concerns over the decline in China's property market in Q4 2014.

TRADE AND INVESTMENT AGREEMENTS AND ARRANGEMENTS:

- China has entered into negotiations for trade agreements with ASEAN, Republic of Korea (South Korea), Japan, and for the Regional Comprehensive Economic Partnership (RCEP) during Q4 2014.
- China and Sri Lanka have concluded a Joint Feasibility Study of a possible trade agreement during this quarter. The study has noted to indicate to a positive result if such agreement will be in existence in future.
- China has negotiated separately with United States and the European Union for an Investment Agreement between the countries.

CHANGES IN REGULATORY LAW AFFECTING TRADE AND INVESTMENTS:

- China has promulgated a new legislation on Consumer Rights Protection during this quarter.
- China has also amended its Company Law, Business Reporting standards and Labour standards during this quarter.

MEASURES AFFECTING TRADE

- China has specified preferential tax policies for Animation Industry, and has implemented a slew of VAT reforms.
- China-EU IPR Cooperation Project was launched in Beijing, China on 16 January 2014.
- China-US High-level Dialogue on Anti-monopoly (Dialogue) was held in Beijing, China on 9 January 2014.

TRADE POLICY BY SECTOR

- China has rejected 21800 tonnes of U.S. corn products after detecting an unapproved genetically modified corn strain.

- China Food and Drug Administration has launched a five-month national campaign to ensure proper product standards in the medical devices industry

- China has informed its armed forces to choose domestic brand cars when procuring military vehicles.

WTO DISPUTE SETTLEMENT UPDATES

- WTO issued the Panel Reports on China's rare earths exports on 26 March 2014. The appeal process in this dispute is currently ongoing.

- The Dispute Settlement Body, on 26 March 2014, established three panels: at the request of Japan on Ukraine's safeguard measures on cars, at the request of China on US anti-dumping measures, and at the request of Indonesia on Australia's plain-packaging requirements for tobacco

TRADE POLICY MONITORING REPORT OF CHINA FOR THE QUARTERLY PERIOD: JANUARY- MARCH 2014

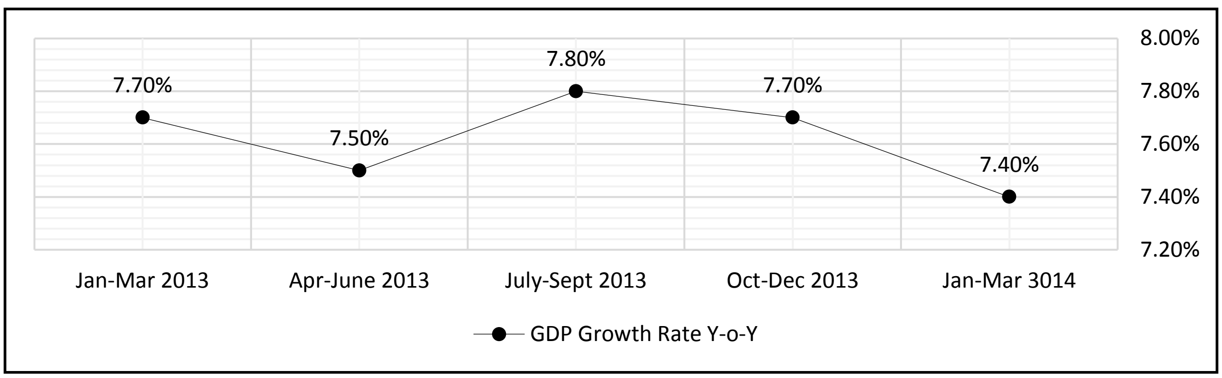
I. INTRODUCTION

This is the twelfth Quarterly Trade Policy Report prepared by the Centre for International Trade and Economic Laws (CITEL), Jindal Global Law School. This report will monitor and discuss the trade and macroeconomic policy developments that took place in the People's Republic of China during the period of October-December 2013.

II. ECONOMIC ENVIRONMENT

II.1. RECENT ECONOMIC DEVELOPMENTS

China's GDP increased by 7.3% year-over-year (y-o-y) in Q4 2014.[1] This growth rate was slightly lesser than the 7.7% experienced in Q3 2013 (y-o-y). The International Monetary Fund (IMF), in its World Economic Outlook 2013 assesses the GDP to grow at 7.5% for the year.[2] However, it also noted that the Government would be required to deter credit growth[3] to prevent a buildup of 'bad loans', even if such a policy decision would result in decline in short-term growth.[4]



Source: *National Bureau of Statistics of China*

[1] BBC News, China's Economy grows at 7.4%, available at: http://www.bbc.com/news/business-27045527.
[2] IMF, World Economic Outlook 2014, p. 126, available at: http://www.imf.org/external/Pubs/ft/weo/2014/01/pdf/text.pdf.
[3] For more on China's credit growth crisis, please refer to: Telegraph UK, China exports plunge as fears of crdit crisis grow, available at: http://www.telegraph.co.uk/finance/10685068/Chinas-exports-plunge-as-fears-of-credit-crisis-grow.html; *See also*, Financial Times, Prasenjit Basu, China's Crisis is Coming- The only question is When and How? (April 27, 2014), available at: http://www.ft.com/cms/s/0/f627e162-cc96-11e3-ab99-00144feabdc0.html#axzz32n49ZbY8.
[4] *Supra* n. 2 at p. 127.

II.2. MONETARY, FISCAL AND OTHER POLICIES

II.2.1. Unemployment

The unemployment Rate in China remained unchanged at 4.1% in Q1 2014.[5] Unemployment rate in China has averaged in the 4% – 4.5% since 2002 (2002: 4.14%), reaching an 'all-time' high of 4.3% Q4 2003.[6]

In a Press Conference held by MOFCOM officials on 24 January 2014, it was demonstrated that a total of 13.1 million new jobs were created in urban areas last year, and 5.66 million people were re-employed after losing work.[7]

It was reported in the previous Trade Policy Monitoring Report of China (Oct-Dec 2013)[8] that China announced its plans to abolish the *hukou* system which is a form of 'internal passport' that restricts the movement of Chinese nationals within the country on 17 December 2013.[9] This decision was noted to increase urbanization and provide migrant workers with a full range of social services in cities away from their hometown. It will further allow for more integration if migrant worker population. The system will also be gradually phased out in medium-sized cities. Some restrictions will remain in place for the larger metropolises such as Beijing and Shanghai in order to prevent large numbers of workers to over-crowd the cities' social infrastructure.[10] The coming reports will monitor these updates.

II.2.2. Manufacturing Activity

The Chinese manufacturing activity levels have declined during the quarter. For March 2014, the official Purchasing Manager's Index (PMI) was 50.3 For February 2014, the PMI was 50.5 while in January it was at 50.9. The expectation is that post the slowdown effects of the Chinese New Year, manufacturing activity will increase since domestic demand will increase.[11] However, analysts believe the manufacturing activity may decline only in Q1 2014.[12]

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[5] Trading Economics, Unemployment Rate in China, available at: http://www.tradingeconomics.com/china/unemployment-rate.

[6] Xinhua, China Daily, China's Unemployment at 4/1% , available at: http://www.chinadaily.com.cn/business/chinadata/2014-01/24/content_17255873.htm.

[7] *Id.*

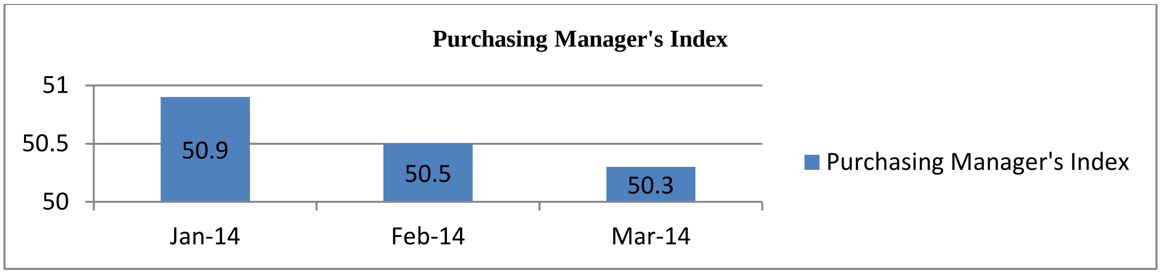
[8] CITEL Trade Policy Monitoring Report of China (Oct-Dec 2013), p. 12.

[9] China Briefing, *China to abolish Hukou System* (17 December 2013) http://www.china-briefing.com/news/2013/12/17/china-to-abolish-hukou-system.html#sthash.TOdA1J7D.dpuf(last visited Mar. 27, 2014).

[10] *Id.*

[11] Reuters, US- China Economy PMI, available at: http://www.reuters.com/article/2014/03/01/us-china-economy-pmi-idUSBREA2001020140301.

[12] CNBC, China PMI update, available at: http://www.cnbc.com/id/101541512.

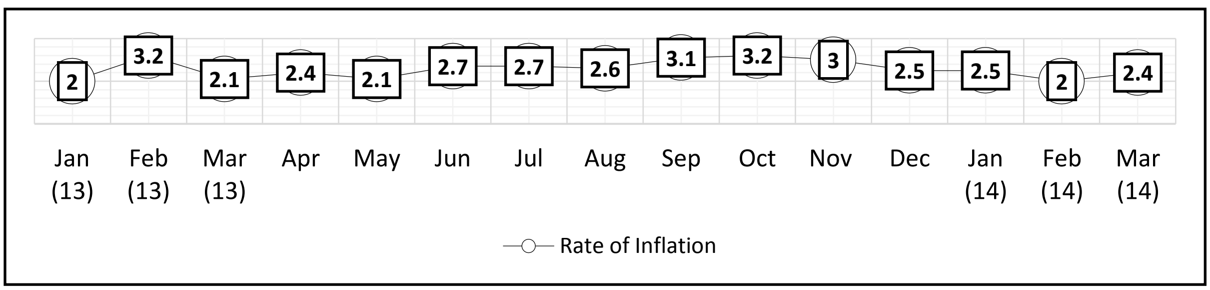


Source: *Markit Economics*

II.2.3. Inflation

China's consumer price inflation (CPI) came down to 2% in February 2014. Earlier, in January 2014 the CPI inflation rate was recorded at 2.5%. China's CPI inflation rate in February 2014 was the lowest rate in thirteen months.[13] Analysts observe that this was due to a decline by 2.7% in food prices in February 2014 (Jan 2014: 3.7%). On a monthly basis, the inflation rate declined by 0.5% (y-o-y), while food costs for February increased by 1.7%. Non-food prices remained at same levels recorded as the previous quarter.[14]

The CPI inflation rate in March 2014 was recorded at 2.4%.[15]



Source: *People's Bank of China (PBC)*

II.2.4. Exchange Rates

The People's Bank of China (PBOC) relaxed controls over foreign exchange. In March 2014, it decided that the band in which the currency can move each day would be doubled in size to 2% and below a fixing rate set each morning. The decision was seen in accordance with the gradual reform of the Renminbi.[16]

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[13] Inflation.eu, Inflation in China 2014, available at: http://www.inflation.eu/inflation-rates/china/historic-inflation/cpi-inflation-china-2014.aspx.
[14] Trading Economics, China Inflation Decreases for February, available at: http://www.tradingeconomics.com/articles/03092014161008.htm.
[15] *Id.*
[16] Financial Times, Josh Noble, available at: http://www.ft.com/intl/cms/s/0/ea819706-ac37-11e3-b510-00144feab7de.html#axzz2ysMCmVz5.

II.2.5. Import, Export and Current Account

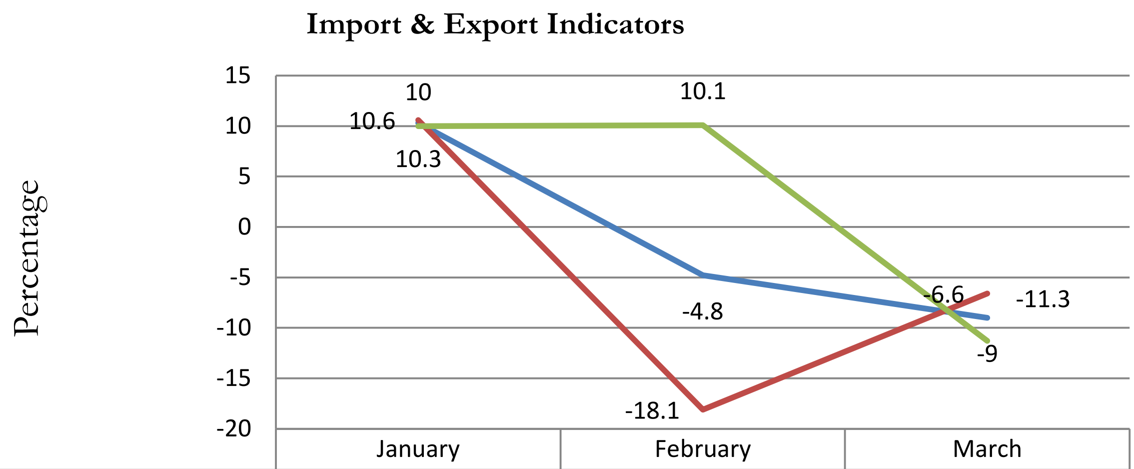
During the month of January 2014, China's import increased by 10% and exports increased by 10.6%. In February 2014, the imports increased by 4.8% in y-o-y terms, whereas exports declined by 18.1%.[17] At the end of the quarter (March 2014), imports declined by 11.3% (y-o-y) and exports declined by 6.6%.[18] According to Bloomberg, privately held financial software, data and media company, China's exports and imports unexpectedly fell in March 2014, which corresponded with a 6.6% decline in shipment during the month.[19]

China recorded a Current Account surplus of 72 USD Hundred Million in the first quarter of 2014. Current Account in China averaged 361.09 USD Hundred Million from 1998 until 2014.

MONTH	TOTAL IMPORT AND EXPORT VALUE		EXPORT VALUE		IMPORT VALUE		IMPORT AND EXPORT BALANCE	
	Absolute Value*	Increase ±%	Absolute Value*	Increase ±%	Absolute Value*	Increase ±%	Absolute Value*	Increase ±%
January	3823.9	10.3	2071.3	10.6	1752.6	10.0	318.7	13.4
February	2511.8	-4.8	1140.9	-18.1	1370.8	10.1	1370.8	--
March	3325.1	-9.0	1701.1	-6.6	1624.0	-11.3	77.1	--

Source: *National Bureau of Statistics; *Absolute Value Unit is 100 Million US Dollars*

17 MOFCOM, Brief Statistics on China Import and Exports for February on MOFCOM, available at:http://english.mofcom.gov.cn/article/statistic/BriefStatistics/201403/20140300518095.shtml.
18 MOFCOM, Brief Statistics on China Import and Exports for January on MOFCOM, available at: http://english.mofcom.gov.cn/article/statistic/BriefStatistics/201403/20140300509421.shtml.
19 Bloomberg, China's Exports Unexpectedly Fell in March (Apr 10 2014), available at: http://www.bloomberg.com/news/2014-04-09/china-exports-unexpectedly-fell-in-march.html.



	January	February	March
Total Import and Export Value	10.3	-4.8	-9
Export Value	10.6	-18.1	-6.6
Import and Export Balance	10	10.1	-11.3

Source: *National Bureau of Statistics*

II.2.6. Agro-Foodstuff Market System Construction

Ministry of Commerce and other Government departments of China decided to promote creation of agro-foodstuff markets systems during the quarter. In their recent opinion on promoting the venture, they focused on the agricultural systems mainline, *via*, its public service, high efficiency, stability as well the main tasks for system construction. The tasks included system improvement, promoting innovation, structuring optimization, supervision enhancement, and policy guarantees. The aim is to establish an efficient, safe, and regulated and ordered agro-foodstuff market system with Chinese characteristics.[20]

II.2.7. Property Market Collapse

Chinese property markets have been experiencing a decline in demand. Property developers have offered discounts and other incentives. However, the market has not shown any tangible impact, with developers terming the phenomenon as a “no buyer” market. China property sales declined to 49.1% in Q1 2014 from the previous quarter. In monetary terms, this decline can be quantified from 99.7 billion yuan in Q4 2013 to 50.7 billion yuan. The precipitous fall was due in part to the failure last month of developer *Zhejiang Xingrun Real Estate*, which had 3.5 billion yuan of indebtedness.[21]

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[20]MOFCOM, News Release, Promoting Agro-foodstuffs, March 2014, available at: http://english.mofcom.gov.cn/article/newsrelease/significantnews/201403/20140300526677.shtm

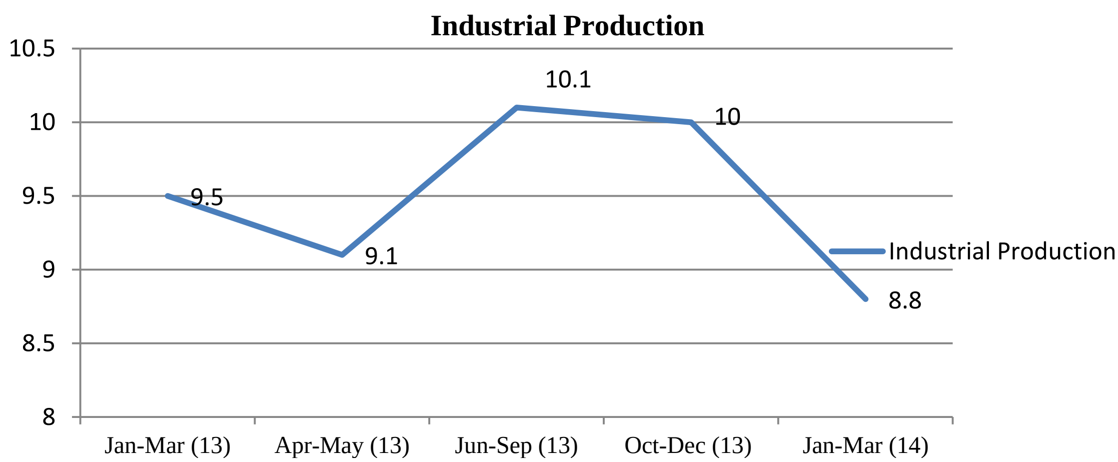
[21] Forbes, Gordon Chang, China’s Property Collapse has begun (Apr 14 2014), available at: http://www.forbes.com/sites/gordonchang/2014/04/13/china-property-collapse-has-begun/

II.2.8. Infrastructural Investments

China's government has set targets for the infrastructure sector, especially growth through railways. The Government will finance construction through bonds worth $24.6 billion. The State Council has expressed the need to innovate the means and measures of macroeconomic control. According to the 12 Year Plan, the Chinese government wants to expand its rail network to 120,000 km in length by 2015.[22]

II.2.9. Industrial Production

The total value-added of the primary, secondary and tertiary industrial enterprises in 2013 increased by 9.7% at comparable prices (y-o-y). The y-o-y growth from Jan-Mar 2013: 9.5%, Apr.-May 2013: 9.1%, June-Aug. 2013: 10.1% and Oct.-Dec. 2013: 10.0%. However, during the quarter (Jan – Mar 2014) the growth rate for Industrial Production declined to 8.8%.



Source: *National Bureau of Statistics*

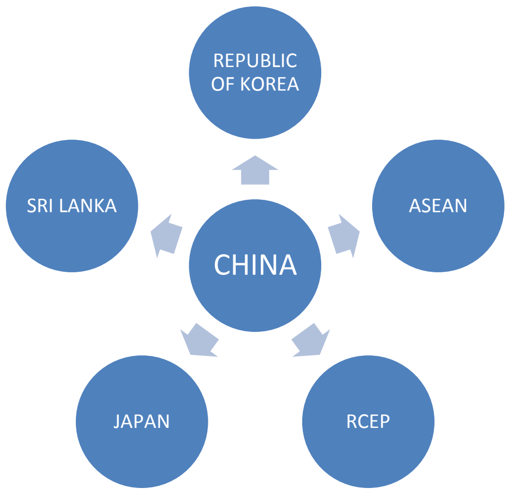
[22] Forbes, Oliver Barron, Is China's Stimulus Different This Time (Apr 9 2014), available at: http://www.forbes.com/sites/oliverbarron/2014/04/09/is-chinas-stimulus-different-this-time/

III. TRADE AND INVESTMENT AGREEMENTS AND ARRANGEMENTS

III.A. TRADE AGREEMENTS

During the quarter, China has negotiated with Republic of Korea, ASEAN, Regional Comprehensive Economic Partnership (RCEP) and Japan. Further, China and Sri Lanka also conducted an exploratory study on the possibility of a Free Trade Agreement.

Table: China's activities during the quarter



III.A.1. 10th Round of China-Republic of Korea (ROK) Free Trade Area Negotiations

The 10th round of China-ROK Free Trade Agreement (FTA) negotiations was launched in Korea on 17 March 2014. The negotiations went on for a period of one week, both parties conducted negotiations with respect to such areas as trade in goods, trade in services, investment, rules of origin, trade remedies, technical barriers to trade, sanitary and phytosanitary measures, as well as intellectual property rights.[23]

On 6-10 January 2014, the ninth round of negotiation on China-ROK Free Trade Zone was held in Xi'an, China. During the negotiation, the two parties continued the all-around bids and offered negotiation on trade in goods, and began the negotiation on the contents of agreements on dozens of fields such as trade in services, investment, rule of origin, customs process and trade facilitation, intellectual property and competition policy.

China-ROK Free Trade Zone negotiation was officially launched in May 2012. The two parties agreed to begin the mode negotiation at first, and then launched all-around negotiation on bids and offers and contents of agreements. In September 2013, after seven rounds of negotiation, the two parties reached consensus on the contents of mode files of all fields, ending the mode negotiation smoothly and entered into the all-around negotiation on bids and offers and contents of

[23] MOFCOM, News Release, 18 March 2014, available at: http://english.mofcom.gov.cn/article/newsrelease/significantnews/201403/20140300524488.shtml

agreements from the eighth rounds of negotiation. According to the arrangements of the negotiation schedule, the tenth negation on China-ROK Free Trade Zone will be held in ROK in March.[24]

III.A.2. Fifth Meeting of the Joint Commission of China-ASEAN FTA

The Fifth Meeting of the Joint Commission of China-ASEAN Free Trade Area was held in Chengdu, China on 11 – 13 March 2014. Delegation from China and 10 ASEAN countries attended the meeting. The Chinese delegation included delegates from the Ministry of Commerce, the Ministry of Industry and Information Technology, the Ministry of Finance, the Ministry of Agriculture, the General Administration of Customs, General Administration of Quality Supervision, Inspection and Quarantine, and the Department of Commerce of Yunnan.

The meeting focused on the implementation of China-ASEAN Summit and discussed upgrading China-ASEAN FTA negotiations. Delegates also reviewed the implementation of relevant trade agreements, and started negotiations on rules of origin, economic cooperation, customs procedures and trade facilitation, sanitary and phytosanitary measures and standards, technical regulations as well as assessment procedures.

Earlier in October 2013, Premier Li Keqiang of China had stated that the China-ASEAN Summit should assist in promoting the China-ASEAN FTA to establish a more comprehensive and higher standard free trade agreement.[25]

III.A.3. China and Sri Lanka Completed FTA Joint Feasibility Study

Representatives of the Government of China and Sri Lanka jointly announced the completion of the Joint Feasibility Study on China-Sri Lanka FTA on 11 March 2014. The China-Sri Lanka FTA Joint Feasibility Study was initiated in August 2013 in Beijing, China. The two parties made a comprehensive and in-depth analysis of the feasibility of establishing China-Sri Lanka FTA, and made a positive conclusion that establishing FTA is in line with the interests of both China and Sri Lanka, and is conducive to further deepening China-Sri Lanka bilateral economic and trade relations. At present, China is the second largest trading partner of Sri Lanka, and Sri Lanka is China's fourth largest trading partner in South Asia. In 2013, bilateral trade amounted to USD 3.62 billion, of which China exported USD 3.438 billion, and imported USD 183 million.[26]

III.A.4. Fourth Round of China-Japan-ROK Free Trade Zone Negotiations

On 4 March 2014, the fourth round of China-Japan-ROK Free Trade Zone negotiation was held in Seoul, ROK. The Ministry of Foreign Affairs, State Development and Reform Commission, the

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[24] MOFCOM, 13 January 2014, available at:
http://english.mofcom.gov.cn/article/newsrelease/significantnews/201401/20140100461538.shtml
[25] MOFCOM, 13 March 2014, available at:
http://english.mofcom.gov.cn/article/newsrelease/significantnews/201403/20140300517031.shtml
[26] MOFCOM, 13 March 2014, available at:
http://english.mofcom.gov.cn/article/newsrelease/significantnews/201403/20140300517027.shtml

Ministry of Industry and Information, the Ministry of Finance, the Ministry of Environmental Protection, the Ministry of Agriculture, General Administration of Customs, General Administration of Quality Supervision, Inspection and Quarantine and State Administration for Industry & Commerce of China sent delegations to attend the Negotiation. Delegations from Japan and ROK all participated in the same. With respect to the Negotiation, the pattern of tax reduction of trade in goods, liberalization pattern of trade in services and investment and the scope and domain of the treaty were discussed. [27]

III.A.5. Third Round of Negotiations on Regional Comprehensive Economic Partnership Agreement

The third round of negotiations on the Regional Comprehensive Economic Partnership Agreement (RCEP) was held in Kuala Lumpur, Malaysia on 20 January 2014. In an attempt to complete the negotiations by the end of 2015, the 16 parties continued to negotiate on technical issues in such fields as trade in goods, trade in services and investment, so as to push forward the negotiations with a positive attitude.

To further promote negotiations, all parties decided to set up four working groups on intellectual property rights, competition policy, economic and technical cooperation as well as dispute settlement respectively. In addition, all parties exchanged information on new topics proposed by some members, and held two seminars on intellectual property rights and the relationship between services and investment respectively.[28]

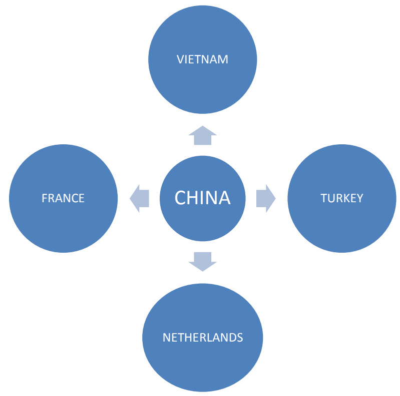
III.B. TRADE ARRANGEMENTS

During this quarter, China attempted to facilitate various trade arrangements with various countries. The following table will provide a brief overview.

Table: China's trade arrangements during the quarter

[27] MOFCOM, 7 March 2014, available at: http://english.mofcom.gov.cn/article/newsrelease/significantnews/201403/20140300509641.shtml

[28] MOFCOM, 27 January 2014, available at: http://english.mofcom.gov.cn/article/newsrelease/significantnews/201401/20140100478396.shtml



III.B.1. China - Vietnam Economic and Trade Delegation discussions

Chinese Economic and Trade Delegation visited Vietnam from 19 – 21 March 2014. Talks were held with the Vietnamese Ministry of Industry and Trade, Ministry of Transport, Ministry of Planning and Investment, and views were exchanged on issues of common concern such as the implementation of the *Martime Silk Road*. China-Vietnam economic and trade relations are deep rooted as both countries attempt to promote the Pan-North Bay economic cooperation.

The talks aimed at strengthening economic and trade cooperation, enhance a balanced development of bilateral trade, increase the mutual investment, promote connectivity construction in terms of infrastructure, and strengthen the coordination and cooperation under regional and sub-regional mechanism so as to push forward the continuous development of bilateral economic and trade development.[29]

III.B.2. China-Netherlands Economic and Trade Cooperation Forum and CEO round table

On 23 March 2014, China-Netherlands Economic and Trade Cooperation Forum (Forum) was successfully held in Noordwijk, Netherlands. Chinese President Xi Jinping and the King of Netherlands William Alexander attended the opening ceremony and made keynote speeches. About 550 representatives of governmental officials and entrepreneurs of both parties attended the ceremony. During the opening ceremony, witnessed by the leaders of China and Netherlands, representatives of enterprises from the two countries signed 8 cooperative agreements involving finance, science and technology, and agricultural cooperation, which amounted to about USD 3 billion.[30]

[29] MOFCOM, 27 March 2014, available at:
http://english.mofcom.gov.cn/article/newsrelease/significantnews/201403/20140300531581.shtml
[30] MOFCOM, 27 March 2014, available at:
http://english.mofcom.gov.cn/article/newsrelease/significantnews/201403/20140300534107.shtml

On 24 March 2014, China-Netherland CEO Round Table (Round Table) followed the Forum. 14 CEOs from China and Netherlands made discussion on five industries of finance, energy/chemical industry/medicine, high-tech and innovation, agriculture and automobile.[31]

III.B.3. China - Turkey Economic and Trade Delegation discussions

On 16-18 March 2014, Chinese government's Economic and Trade delegation visited Turkey, and held talks with Turkish heads of Ministry of Economy, Ministry of Transportation, Treasure Department and Bureau of Railway. Both countries exchanged views on further deepening China-Turkey Economic and trade relations and promoting the establishment of Silk Road Economic Belt and Maritime Silk Road.

During negotiations, both countries agreed on the importance of Turkey's location at the junction of the Euro Asia Continent. China noted that building of Silk Road Economic Belt and Maritime Silk Road provides opportunities to promote China-Turkey economic and trade cooperation. The two countries decided to strengthen institutional improvement on economy and trade, actively promote bilateral cooperation on trade in goods and services, investment and infrastructure construction, resolve the problems of each other's concern and promote the new progress of the development of bilateral economic and trade relation.[32]

III.B.4. 22nd Session of China-France Economic and Trade Joint Committee

The 22nd Session of China-France Economic and Trade Joint Committee (Session) took place in Paris, France on 24 February 2014. This year marks the 50th anniversary of the establishment of China-France diplomatic relations, and is of great significance to hold the Joint Committee. China would like to deepen the cooperation with France in the areas of ecological garden, trade in agricultural products, nuclear energy, aeronautical and space technologies, investment facilitation and standardization, government procurement and the crackdown of financial crime.

The Government of France welcomed more Chinese companies to invest in France and encouraged joint cooperation between companies from both sides to achieve common interests through the investment cooperation in some large industrial projects.[33]

III.B.5. 14th China-Japan Textile Trade Annual Meeting

The 14th China-Japan Textile Trade Annual Meeting (Meeting) was held by China Chamber of Commerce for Import and Export of Textile and Apparel (CCCT), and the Japan Textiles Importers Association (JTIA) in Beijing, China on 27 January 2014. Representatives from enterprises of both

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[31] MOFCOM, 26 March 2014, available at:
http://english.mofcom.gov.cn/article/newsrelease/significantnews/201403/20140300534137.shtml

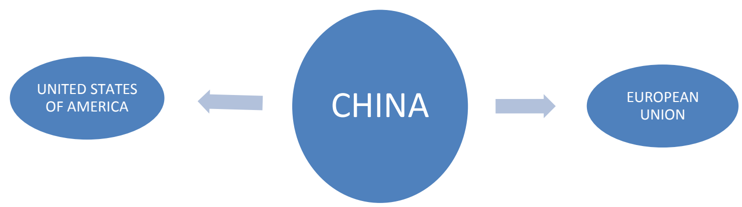
[32] MOFCOM, 18 March 2014, available at:
http://english.mofcom.gov.cn/article/newsrelease/significantnews/201403/20140300531714.shtml

[33] MOFCOM, 27 February 2014, available at:
http://english.mofcom.gov.cn/article/newsrelease/significantnews/201402/20140200501819.shtml

sides such as *Shandong Cherry Group, TFSunny, Marubeni, Toyota Tsusho, Itochu* and *Chori* attended the meeting. Both sides held in-depth talks on China-Japan textile trade, and exchanged opinions on issues concerning the rising ocean freight, Japan's limit on azo dyes, as well as sourcing and transfer. Both sides expressed that they should continue to strengthen project cooperation and information exchanges in the future so as to enhance the stable development of China-Japan textile & apparel trade.[34]

III.C. INVESTMENT AGREEMENTS AND ARRANGEMENTS

During the quarter, China negotiated investment agreements with European Union and the United States of America.



III.C.1. 2nd Round of China-EU Investment Agreement Negotiations

The second round of China-EU Investment Agreement Negotiations was held in Brussels, Belgium on 24 March 2014. Both countries exchanged views on conceptual issues regarding the investment agreement. The negotiations lasted for two days.[35]

The China-EU Investment Agreement Negotiations were launched at the 16th China-EU Summit in November 2013, and the first round of negotiations was conducted in January 2014. China and EU are noted to have deep economic and trade relations. Both countries desire to reach a stable, transparent and balanced investment agreement through negotiations.[36]

III.C.2. 12th Round of China-US Investment Treaty Negotiation

On 4 March 2014, the 12th round of China-US Investment Treaty Negotiation was held in Washington DC, US. Earlier, in January 2014 the 11th round of negotiation was held in Shanghai, China, during which both countries began material negotiations on the text for the first time. In this

[34] MOFCOM, 8 February 2014, available at:
http://english.mofcom.gov.cn/article/newsrelease/significantnews/201402/20140200493197.shtml
[35] Europa.eu,. 2014. 'EUROPA - PRESS RELEASES - Press Release - EU And China Hold Investment Talks Ahead Of President Xi Jinping Visit To Brussels'. Accessed May 5 2014. http://europa.eu/rapid/press-release_IP-14-291_en.html
[36] MOFCOM, 25 March 2014, available at:
http://english.mofcom.gov.cn/article/newsrelease/significantnews/201403/20140300531663.shtml

round of negotiation, the two parties continued to consult and negotiate on the text. Since 2008, China and the US have held 11 rounds of investment treaty negotiations.[37]

China-US investment treaty negotiations have important significance on strengthening guarantee of rights and interests of investors, boosting bilateral investment and promoting the healthy development of China-US economic and trade relation.[38]

III.D. OTHER LEGAL AND REGULATORY UPDATES AFFECTING TRADE

III.D.1. Consumer Rights Protection Law

China's new Consumer Rights Protection Law provides more protection for consumers. Previously, consumers had the burden of proof to show the defects of the products or services purchased. The new law shifts the burden of proof from the consumer to the seller for six months after the products or services are provided (the privilege expires after six months). It also confirms the right of rescission for consumers on products purchased *via* internet, television, phone or mail. Additionally, the new law places stringent obligations for online transaction platform providers. They will be held liable in a dispute if they cannot provide the real name, address and effective contact information of a seller to consumers of online purchases. It also increases the punitive damages for conducting fraudulent acts in a transaction at three times the original price. The new law came into effect on 15 March 2014.

III.D.2. Business Transactions Reporting Requirement

China's State Council amended the *Measures on the Report of Statistics of Balance of International Payment (State Council Order 642)* in November 2013, which entered into force on 1 January 2014. The Measures require individuals and entities including FIEs and ROs in China to report not only all economic transactions (including the purchase and sale of commodities and services, giving and receiving endowments, and making and receiving investments) they conduct with non-residents in China, but also all of their foreign financial assets and liabilities under the supervision of SAFE. The new Measures also impose new obligations on non-residents of China, including foreign individuals and entities, to report to SAFE through the processing bank about their economic transactions with Chinese individuals and entities, including FIEs and ROs, in China. Detailed requirements are expected to be released in 2014.

III.D.3. Amendment of Company Law

In October 2013, China's State Council decided to relax company registration requirements by lowering registered capital requirements, reducing costs of incorporation, and loosening registration

[37] UNCTAD, UN, March 2014, Investment Policy Monitor, Issue No. 12, Page 6, http://unctad.org/en/PublicationsLibrary/webdiaepcb2014d1_en.pdf

[38] MOFCOM, 6 March 2014, available at: http://english.mofcom.gov.cn/article/newsrelease/significantnews/201403/20140300509595.shtml

principles. In the following month, the State Administration of Industry and Commerce confirmed that the new policies also apply to FIEs in China. On 28 December 2013, the Standing Committees of the National People's Congress, the legislative organ of China, passed the decision to revise the Company Law. The new law came into effect on 1 March 2014.[39] We highlight some of the key revisions below:

- The minimum registration capital of RMB 30,000 for limited liability companies, as well as the RMB 100,000 minimum for single shareholder companies and the RMB5 million minimum for joint stock companies will be cancelled;

- There will be no mandatory ratio of the initial payment and deadline for full payment of registered capital;

- The actual capital contributions of the company will no longer be required for incorporation. The current *Company Law* requires 20% of the registered capital to be paid in full upon company registration;

- Company registration based on actual capital contributions will be replaced by company registration based on subscribed capital contributions, which means it will be unnecessary to actually have the funds at the time of registration. The shareholders of the company (the founders) will decide on the amount, method, and deadline for subscription of contributions at their discretion, and will be responsible for the authenticity and legitimacy of the contribution.

III.D.4. China's Labour Laws

China's Ministry of Human Resources and Social Security (MOHRSS) promulgated the 'Interim Regulations on Labor Dispatch; (MOHRSS Order No. 22, Interim Regulations) on 1 February 2014, which will come into force on 1 March 2014. As the first comprehensive labor dispatch regulation at the country's Ministerial level, the Interim Regulations introduce several changes to the current rules and will present challenges in human resource management for foreign invested enterprises in China.[40]

Key information about the Interim Regulations can be found below.

III.D.4.a. *Applicable Scope*

According to the Interim Regulations, labor dispatching arrangements are only applicable for the following three types of positions:

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[39] Dezan Shira, *China Briefings*, available at: http://www.china-briefing.com/news/2014/02/14/recap-of-chinas-key-2013-value-added-tax-and-legal-regulatory-updates.html#more-26141.

[40] Dezan Shira & Associates, *China Briefings*, available at: http://www.china-briefing.com/news/2014/02/28/chinas-new-labor-dispatch-rules-to-be-enforced-march-1.html#more-29050.

- Temporary position: A position with a duration of no more than six months;

- Auxiliary position: A position that provides auxiliary services to the main or core business of the employer;

- Replaceable position: A position that can be performed by a dispatched employee in place of a permanent employee during the period when such employee is away from work for study, vacation or other reasons.

The applicable position type must be specified within the applicant's dispatch contract.

IV. TRADE POLICIES AND PRACTICES BY MEASURE

IV.A. MEASURES DIRECTLY AFFECTING IMPORTS

IV.A.1. CUSTOMS

IV.A.1.a. *China Issues new Customs valuation regulations*

On 25 December 2013, the General Administration of Customs of the People's Republic of China (GAC) issued two new regulations on customs valuation, both effective from 1 February 2014. GAC Order No. 213, entitled Measures of Customs of the People's Republic of China for the Determination of Dutiable Value of Imports and Exports, will replace the existing regulation with the same title issued under GAC Order No. 148 on 28 March 2006. In addition, GAC Order No. 211, entitled Measures of Customs of the People's Republic of China for the Determination of Dutiable Value of Domestic Sales of Bonded Goods, is an entirely new regulation specifically providing for the valuation of bonded goods sold within the territory of China.

Changes to the Customs Value Regulations under Order 213:

- ⇒ Customs may consider the circumstances of a sale in determining the acceptability of transaction value between related parties
- ⇒ Calculation of international freight for imported goods
- ⇒ Commissions in the valuation of exported goods

Valuation topics covered by Order 211:

- ⇒ Bonded materials or finished goods (including defective and substandard goods) sold by a contract manufacturer located within the territory of China
- ⇒ Bonded waste and scrap materials, by-products and residue after accidents sold by a contract manufacturer located within the territory of China
- ⇒ Bonded waste and scrap materials, by-products and residue after accidents sold by a contract manufacturer located within the territory of China

- ⇒ Bonded materials or finished goods sold by a manufacturer located within a customs bonded area
- ⇒ Bonded scrap, defective or substandard products and by-products sold by a manufacturer located within a customs bonded area
- ⇒ Bonded goods imported into a customs bonded area for logistics, inspection and exhibition purposes and sold within the territory of China
- ⇒ Bonded goods for Research and Development

IV.A.1.b. *General Administration Council to institute paperless IPR filings*

On 20 February 2014, the General Administration of Customs (GAC) announced that as of 1 March 2014, intellectual property rights (IPR) holders will be able to file for protection via a paperless online process. As of January 2014, the GAC has accepted thousands of applications for recording intellectual property rights. Currently IPR holders first make an online submission of electronic data, and then mail the paper documents to the General Administration of Customs. Once the new system goes into effect, applicants will be able to complete the entire application process online, no longer having to mail paper documents. They will also be able to correct errors online. The new procedure will greatly reduce the work-load of application submission and shorten the application time.[41]

IV.A.2. TECHNICAL BARIERS TO TRADE

For details, please refer to **Annexure A**.

IV.A.3. ANTI-DUMPING

For details, please refer to **Annexure B**.

IV.A.4. SANITARY & PHYTOSANITARY MEASURES

For details, please refer to **Annexure C**.

IV.B. MEASURES AFFECTING PRODUCTION AND TRADE

IV.B.1. TAXATION

IV.B.1.a. *Inter-Governmental Treaty involving US and China*

The United States (US) has been preparing legislation under the Foreign Account Tax Compliance Act (FATCA). FATCA is a complex reporting regime intended to enable US access offshore accounts and investment incomes of US citizens who have failed to report these holdings. However, despite several countries accepting the FATCA, China has continued to negotiate with the US over

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[41] Baker & McKenzie, *International Trade Compliance Newsletter*, March 2014.

whether or not China will allow Chinese financial institutions to report US taxpayer information. Under the FATCA, participating foreign financial institutions would be required to report to the US with information related to US taxpayers, or foreign firms in which US taxpayers hold substantial ownership.

It was reported in September 2013 that both countries had agreed to reach an intergovernmental agreement (IGA) on the FATCA before January 2014. This has, however, proven unfounded, with no such negotiations or agreement despite the US Treasury announcing a six-month extension on FATCA implementation July 2013 in anticipation of an IGA with China.[42]

IV.B.1.b. *Recap of Key Corporate Tax Updates during the financial year 2013-14*

a. SAT Circular No. 70 directed at companies pursuing Research & Development activities

China's State Administration of Taxation (SAT) had released the *Guoshuifa* [2008] No. 116 (Circular 116) in 2008 to permit companies with research and development (R&D) activities to deduct relevant expenses from their taxable income. Circular 70 was released in April 2013. This Circular supplements Circular 116 and has further expanded the scope of deductible R&D expenses. Currently, in addition to the ones stipulated in Circular 116, the R&D expenses listed below are also deductible from a company's taxable income:[43]

- Basic pension, basic medical insurance, unemployment insurance, work-related injury insurance, maternity insurance and housing funds contributed by the enterprise for employees directly engaged in R&D activities;
- Expenses for the operational maintenance, adjustment, inspection, and repair of instruments and equipment dedicated to R&D activities;
- Expenses for purchasing sample products or sample machines that do not constitute fixed assets, and general testing;
- Expenses for clinical trials of new drugs; and
- Expenses for authentication of R&D results.

b. SAT Announcement No. 19 dealing with treatment on Cross-border secondment of expatriates by non-resident enterprises

[42] Dezan Shira & Associates, *China Briefings*, available at: http://www.china-briefing.com/news/2014/02/05/china-and-the-u-s-foreign-account-tax-compliance-act.html#more-26059

[43] Dezan Shira & Associates, *China Briefings*, available at: http://www.china-briefing.com/news/2014/01/29/recap-of-key-2013-corporate-income-tax-regulatory-updates.html#more-25970

Announcement 19 was entered into effect on 1 June 2013. The Announcement clarifies the Corporate Income Tax (CIT) treatment of secondment of expatriates to China by foreign companies. According to Announcement 19, when a non-resident enterprise (NRE) dispatches personnel to China to provide services, and the NRE normally examines and assesses the performance of the dispatched personnel, and is wholly or partially responsible for their performance, the NRE will be deemed to have a place of business or an establishment in China.[44]

This means that the foreign company will be exposed to Chinese CIT on both incomes originating from China, and incomes that are obtained outside of China but have a substantial connection with the establishment in China. If a dispatching enterprise is a contracting country that has entered into a double taxation agreement (DTA) with China, and the establishment or place of business is relatively fixed and permanent in nature, it will be deemed a permanent establishment (PE) in China and the relevant DTA will prevail.

c. SAT Announcement [2013] No. 41 – Treatment of Mixed Investments

SAT Announcement No. 41, effective from 1 September 2013, had clarified CIT treatment of incomes and expenses from mixed investments. As per Announcement No. 41, mixed investments refer to investment that combines features of both equity investment and debt investment.

Under China's CIT law, dividend income from equity investment is exempt from CIT for the recipient, but the dividends distributed cannot be deducted from the taxable income of the distributor. Returns on debt investments are considered interest income and taxable for the recipient, but is considered an interest expense for the distributor and deductible from their taxable income.[45]

IV.B.1.c. *Business Tax Issue Concerning Intragroup Loans in Hainan Province*

SAT of Hainan Province in China recently released a Letter (*Qiongdishuihan* [2013] No. 817) concerning the business tax (BT) issue of intragroup loan transactions. It refers to the "Notice Concerning Business Tax Issues of Collective Borrowing and Repayment of Non-Financial Institutions" (*Caishuizi* [2000] No. 7, or Circular No. 7) jointly released by the Ministry of Finance and the SAT of China. The Letter No. 817 has reaffirmed that eligible intragroup loan transactions are not subject to BT.

Many banks have raised concerns about the credibility of small and medium-sized enterprises (SMEs). For the SMEs, obtaining loans from banks is difficult because of such perception. In an attempt to resolve such challenges, some SMEs have asked their parent or core companies for assistance. The core company (the collective borrower), who in the present circumstances, is more like receive money from banks generally makes a collective borrowing, and

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[44] Dezan Shira & Associates, *China Briefings*, available at: http://www.china-briefing.com/news/2014/01/29/recap-of-key-2013-corporate-income-tax-regulatory-updates.html#more-25970

[45] *Id.*

then onlend the loans obtained to the SMEs of the same group. The loan repayment would also be made by the collective borrower to the banks.

According to China's Interim Regulation of BT, the interest obtained from onlending transactions is considered sales and subject to 5% BT. Circular No. 7 stipulates that interest income obtained from intragroup onlending transactions are not subject to BT as long as the interest rate for the interest revenue equals to the interest rate held by the banks. If the interest rate for the onlending transactions is higher than the bank loan rate, the intragroup onlending transactions will be considered providing general loan services and subject to 5% percent BT.[46]

IV.B.1.d. ***Tax Refund Policy on Goods Exported by Foreign Trade Service Providers***

To clarify the terms of provisions and promote the participation of SMEs, China's SAT released an announcement regarding the refund of taxes on goods exported by foreign trade comprehensive service enterprises on 27 February 2014. The Announcement will go into effect on 1 April 2014.

The term 'foreign trade comprehensive service provider' refers to foreign trade enterprises who provide export-related services in logistics, customs declaration, credit insurance, financing, receipt of foreign exchange and tax rebate for domestic SMEs in the manufacturing industry. As stated in the Announcement, the export of goods by a foreign-trade comprehensive service provider, under contract between a domestic manufacturer and an overseas organization or institution, will be eligible for a VAT refund if the following conditions are met:[47]

- The export goods must have been produced by the manufacturer in question;
- The manufacturer must have sold the export goods to the comprehensive service provider;
- An export agreement must have been signed between the manufacturer and the overseas enterprise or individual stipulating that the goods in question will be exported by the comprehensive service provider to the overseas party, who will then issue payment to the service provider; and
- The service provider must solely handle their export activities (i.e. cannot outsource their services)

IV.B.1.e. ***China's VAT Reform to be expanded to Telecom Sector***

China's ongoing value-added tax (VAT) reforms will be expanded to the telecommunications sector. Initially limited to certain transportation and modern service industries in Shanghai, the VAT reform on services met with such success, and is replacing business tax. Currently, the VAT reform has

[46] Dezan Shira & Associates, *China Briefings*, available at: http://www.china-briefing.com/news/2014/01/16/hainan-sat-reaffirms-business-tax-issue-concerning-intragroup-loas.html#more-25841
[47] Dezan Shira & Associates, *China Briefings*, available at: http://www.china-briefing.com/news/2014/03/26/china-clarifies-tax-refund-policy-on-goods-exported-by-foreign-trade-service-providers.html#more-29376

covered transportation, postal, broadcasting and other modern service sectors and has implemented VAT rates ranging from 0-17% depending on the specific service sector involved. For example, leasing of tangible movable property is taxed on a 17 percent VAT rate, while providing certification and consulting services are taxed at 6%.

Experts have estimated that changes to the telecommunications sector would reduce profitability (estimates range from 7%- 25%) for the big 3 state-owned enterprises of China's telecom sector: China Mobile Ltd., China Unicom (Hong Kong) Ltd., and China Telecom Corp. Given that the BT rate for telecom services presently is 3% percent, the industry will assuredly be taxed at a higher rate under the changes. In response to the new VAT regime, carriers may be spurred to adopt new practices to avoid high taxation, such as offering free or discounted handsets when bundled with a service contract, according to KPMG, an audit, tax and advisory service firm, in 2013.[48]

a. Recap of Chinas Pilot - Value Added Tax Reforms

On 1 August 2013, the VAT pilot reform was implemented nationwide, as formalized by the promulgation of the *Notice Concerning the Nationwide Adoption of VAT in lieu of BT Pilot Tax Collection Policy in the Transportation Industry and Certain Modern Service Industries* (Caishui [2013] No. 37, Circular 37) by China's Ministry of Finance (MOF) and the SAT on 24 May 2013.

In early December 2013, China's State Council revealed the further expansion of the VAT reform to the railway transportation and postal service industries, and the MOF and the SAT jointly released the *Notice Regarding the Inclusion of Railway Transportation and Postal Service Industries under VAT in lieu of Business Tax Pilot Reform* (Caishui [2013] No. 106, Circular 106), which came into effect on 1 January 2014, abolishing Circular 37. Circular 106 specifies that 11% VAT will be applied to railway transportation and postal service industries. The new regulation also altered the rules on leaseback services, providing relief to the financial leasing industry. [49]

IV.B.1.f. *China Specifies Preferential Tax Policies for Animation Industry*

In an attempt to encourage and support the development of China's animation industry, the Ministry of Finance (MOF) and State Administration of Taxation (SAT) jointly disseminated the 'Notice Concerning Value-Added Tax (VAT) and Business Tax (BT) Policies of Animation Industry' (Caishui [2013] No. 98, Circular 98) in November 2013. Circular 98 clarifies the preferential VAT and BT policies as they apply to animation enterprises, beginning retrospectively on 1 January 2013.[50] It entered into effect in January 2014.

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[48] *Id.*

[49] Dezan Shira & Associates, *China Briefings*, available at: http://www.china-briefing.com/news/2014/02/14/recap-of-chinas-key-2013-value-added-tax-and-legal-regulatory-updates.html#more-26141.

[50] Dezan Shira & Associates, *China Briefings*, available at: http://www.china-briefing.com/news/2014/01/07/china-specifies-preferential-tax-policies-for-animation-industry.html#more-25722.

a. Preferential VAT Policies

Animation enterprises are subject to a 17% VAT rate for the domestic sale of self-developed and manufactured animation software. Circular 98 stipulates that VAT in excess of 3% will enjoy an instant VAT refund. The export of animation software is also VAT exempted. These policies are effective till 31 December 2017.

b. Preferential Business Tax Policies

A 3% BT rate applies to animation enterprises providing the following services:

1. **Animation script compilation**
2. **Image design**
3. **Background design**
4. **Animation design**
5. **Storyboard**
6. **Animation production**

IV.B.2.INVESTMENT PROMOTION

IV.B.2.1. *Investment Policy*

China remains the largest recipient of foreign investment among emerging economies. [51] Foreign investment continues to play a significant role in promoting China's trade and tax revenue. A number of structural changes have occurred in recent years, including the revival of equity joint ventures, faster growth in services-sector FDI than in manufacturing, and a reorientation of FDI from the Eastern Region to the Central and Western Regions.

In addition, China is 'going global' i.e., it has been rapidly becoming an important source of outward foreign direct investment (OFDI), a trend that was reinforced by the global financial and economic crisis. China tries to maintain the investor confidence through economic strength but on the other hand it is being pulled back by raising labour costs, shortage of skilled labour and competition. Furthermore, there are fears that there is an emergence of investment protectionist trend which is evidenced by perceived discrimination against foreign owned companies in government procurement. To curb these fears, the Chinese government is adopting measures to

[51] Davies, K. (2013), "China Investment Policy: An Update", OECD Working Papers on International Investment, 2013/01, OECD Publishing.http://dx.doi.org/10.1787/5k469l1hmvbt-en

streamline and decentralise foreign investment. The policies emphasise on concerted inward foreign investment, upgrading industrial sophistication, encouraging innovation, establishing outsourcing industries, and developing remote regions. The Chinese government continues in its efforts to liberalise and increase the transparency and predictability of the framework for both inward and outward FDI.

IV.B.2.2. *Investment Promotion and Regulation Measures*

The investment promotion and regulatory measures taken by People's Republic of China (PRC) appear to have relaxing effects on Investments. These measures are given below:

IV.B.2.3. *Issues Concerning Direct Investments with Offshore RMB*

On 3 December 2013, China's Ministry of Commerce (MOFCOM) issued The Notice on Issues Concerning Direct Investments with Offshore RMB (Notice [2013] No. 87). The Notice became effective on 1 January 2014. It replaces the 2011 Notice on the said topic. The Notice clarifies several issues pertaining to the 2011 Notice and helps to promote the cross-border inflow of RMB by simplifying the regulations governing the use of offshore RMB in foreign direct investment transactions. Though the measure introduced has substantially reduced the regulations governing foreign direct investments using offshore RMB, yet some restrictions on the use of funds continue to apply. Foreign investors are still prohibited from using offshore RMB funds to directly or indirectly invest in negotiable securities and financial derivatives (not applicable to strategic investments in listed companies), as well as entrusted loans in China.[52]

IV.B.2.4. *Recent Changes to the Company Law of the People's Republic of China*

Twelve amendments have been made to the Company Law to relax the requirements on registered capital and simplify the registration procedures. These changes will become effective on 1 March 2014. The amendments are intended to stimulate private sector entrepreneurship and to shape a better economic landscape for market reform. The extent to which the aforesaid amendments to the PRC Company Law will apply to the establishment and operation of Foreign Investment Enterprises ("FIEs"), such as Sino-Foreign Equity Joint Ventures and Wholly Foreign owned Enterprises, is not yet clear. As with the existing Company Law, the amended Company Law is applicable to FIEs to the extent that an issue is not addressed under more FIE specific regulations. Many of the amended matters are covered by FIE specific regulations, but with time it can be expected these amendments will become relevant to FIE establishment and operations. In particular, the relaxation of capital contribution requirements is likely to have direct impact on similar requirements currently under the FIE Laws as well as the implementing regulations and rules. These

[52] English.mofcom.gov.cn,. 2014. 'MOFCOM Announcement No.87 Of 2013 On Issues Concerning Cross-Border RMB Direct Investment -'. Accessed May 5 2014. http://english.mofcom.gov.cn/article/policyrelease/aaa/201312/20131200436266.shtml.

amendments will provide the foreign investors the required flexibility in capitalising their investment projects in China, as they do in many market economy countries.[53]

IV.B.2.5. *Verification Requirements Simplification*

The Catalogue of Investment Projects Requiring Government Approvals significantly simplifies the verification requirements for the outbound investments by limiting central verifications to specified investment projects. MOFCOM approval is only needed when overseas enterprises (excluding financial enterprises) are established in sensitive countries, sensitive regions or sensitive industries. Establishment of all other overseas enterprises are only required to file records to the authorities. These changes are in line with the general relaxation of the requirements applicable to PRC outbound investment.[54]

IV.B.2.6. *Research and foreign investment constraints on E-commerce*

On 9 January 2014, the MOFCOM foreign investment administration department Deputy Director General (DDG) stated that MOFCOM is currently undertaking research in softening the constraints on foreign investment of E-commerce. At present, the foreign investment on e-commerce industry is limited up to 50%. Although under Shanghai Free Trade Zone (SHFTZ) and Closer Economic Partnership Agreement (CEPA), the restriction is lifted up to 55%. DDG explained that MOFCOM is working with other ministries on how to soften the relevant regulations of foreign investment restrictions in these fields, but currently there is not yet a schedule for the opening up. It was also mentioned that other industries including telecommunication and logistics might be covered in the future too [55]

IV.B.2.7. *Approval for 12 extra Free Trade Zones (FTZ)*

In January 2014, China's central government approved 12 free trade zones (FTZ) following the one in Shanghai, amid a spurt of nationwide enthusiasm for such schemes. After consent from the cabinet, a group of central government departments will conduct a joint survey of the proposed zones, and thresh out specific establishment plans in a process that may last more than a year. So far, Tianjin and Guangdong have completed the survey part, which the other 10 have just started. Provincial regions including Zhejiang, Shandong, Liaoning, Henan, Fujian, Sichuan, Guangxi and Yunnan, and cities including Suzhou, Wuxi and Hefei have all prioritised filing FTZ applications.

[53] Deacons.com.hk,. 2014. 'China Legal Update, Issue 2 Of 2014: February'. Accessed May 5 2014. http://www.deacons.com.hk/eng/knowledge/knowledge_580.htm#3.
[54] Deacons.com.hk,. 2014. 'China Legal Update, Issue 2 Of 2014: February'. Accessed May 5 2014. http://www.deacons.com.hk/eng/knowledge/knowledge_580.htm#1.
[55] Opentoexport.com,. 2014. 'China: Trade And Business Environment Newsletter 2014 (Issue 2) March 2014 - Open To Export'. Accessed May 5 2014. http://opentoexport.com/article/china-trade-and-business-environment-newsletter-2014-issue-2-march-2014/.

The emerging FTZs would be testing grounds for further opening-up policies, and serve as the bright spot of the country's economic development.[56]

IV.B.2.8. *Shanghai Free Trade Zone*

The Shanghai Pilot Free Trade Zone was opened on 29 September 2013. The establishment of Shanghai Pilot Free Trade Zone was a measure to carry out a more active and initiative strategy of opening under the new circumstances of reform and opening in China that followed the new trend of global economic and trade development.; the major tasks were to accelerate the transformation of government functions, explore innovations in management modes, expand the opening of service industry, intensify the opening and innovation of financial sectors. This would accumulate new experience for a full and comprehensive intensified reform and expansion of opening, realize system innovation and exploration of new methods and was of great significance for inspiring economic vitality and creating system bonuses.

In the course of formulating the overall plan of the Zone, the People's Government of Shanghai Municipality and relevant departments of the State Council, in accordance with the requirements of the Party Central Committee and the State Council, had piloted early implementation with respect to transformation of government functions, reform of foreign investment management system, trial of negative list management mode, expansion of opening in service industry, innovation in methods of regulation and service, convertibility of RMB capital accounts, interest rate liberalization in financial markets and cross-border use of RMB, and realized breakthrough.

MOFCOM stated that it would along with other departments of the State Council continue to provide active supports for the construction of Shanghai Pilot Free Trade Zone and timely study and solve new circumstances and issues. It was expected that the Shanghai Pilot Free Trade Zone would become a 'test field' for China to promote reform and improve level of open economy, exert its role to be a model for, drive and serve China, promote co-development of all regions and formation of globally-oriented new competitive advantages of China and create an updated version of Chinese economy. During the ceremony, representatives of the enterprises and financial institutions already settled in the zone were granted with licenses and certificates.[57]

a. Recent Updates

[56] News.Xinhuanet.com,. 2014. 'China Approves 12 More Free Trade Zones - Xinhua | English.News.Cn'. Accessed May 5 2014. http://news.xinhuanet.com/english/china/2014-01/22/c_133066293.htm.

[57] MOFCOM, *Mr. Gao Hucheng Said in his Address at the Opening Ceremony of China (Shanghai) Pilot Free Trade Zone to Develop Pilot Zone and Enhance Competitiveness in the Globe through Expansion of Opening* (8 October 2013) http://english.mofcom.gov.cn/article/newsrelease/significantnews/201310/20131000335013.shtml (last visited Mar. 27, 2014).

Approval of the Pilot Work Scheme for Exploring China-Foreign Law Firm Business Cooperation Methods and Mechanisms in the China (Shanghai) Free Trade Zone (Shanghai FTZ)

On 27 January 2014, the Ministry of Justice (MOJ) approved the Shanghai Judicial Bureau's *Pilot Work Scheme for Exploring China-Foreign Law Firm Business Cooperation Methods and Mechanisms in the China (Shanghai) Free Trade Zone (Shanghai FTZ)*. The Scheme is expected to expand liberalization of the legal services industry and serve as a model for other legal service markets in China.

Previously, foreign lawyers were prohibited from directly participating in China's legal affairs as a foreign law firm can only set up a branch or a representative office (RO) in China, which means that their business scopes are limited. Further, China's National Judicial Examination (lawyer's qualification test) is not open to foreigners, making it impossible for foreign lawyers to obtain a license to practice law in China.

The Scheme will pilot two opening up measures:

- First, a foreign law firm that has established an RO in the Shanghai FTZ will be allowed to enter into an agreement with a Chinese law firm to mutually dispatch lawyers to the other firm. This means that the Chinese law firm can dispatch China-licensed lawyers to the RO, while the latter can dispatch foreign lawyers to the former to serve as foreign legal consultants. They can commence business cooperation via the division of labor within the scope of their respective practice and authorization.

- Second, foreign law firms that have already established ROs in China can set up a joint operation in the Shanghai FTZ with a Chinese law firm, whereby they would provide legal services to Chinese and foreign clients based on Chinese and foreign laws in accordance with the rights and obligations stipulated in their agreement. During the period of joint operation, the two parties' legal status, names and finances should remain independent, and they should bear civil liabilities independently.

The MOJ also specifies that that the Scheme will apply to Hong Kong and Macau law firms already established in Mainland China. The Shanghai Judicial Bureau is studying corresponding measures to support the Scheme and to, among other things, better supervise and administrate legal service agencies and personnel in the Zone.[58]

IV.B.3.INTELLECTUAL PROPERTY UPDATES

[58] Dezan Shira & Associates, *China Briefings*, available at: http://www.china-briefing.com/news/2014/03/26/shanghai-ftz-expand-liberalization-legal-services-industry-china.html#more-29381.

IV.B.3.1. *China-EU IPR Cooperation Project*

China-EU IPR Cooperation Project was launched in Beijing, China on 16 January 2014. Over one hundred guests at home and abroad from more than ten government departments including Ministry of Commerce, European Commission, EU Delegation to China, EU's Office for Harmonization in the Internal Market (OHIM) attended the launching ceremony.

New China-EU IPR Cooperation Project will last for a period of 36 months, focusing on cooperation in three areas and 16 respects including legislation, enforcement, jurisdiction, bilateral exchanges and promotion, etc. Participants from China side include 15 government departments, industrial associations, enterprises and industrial parks, etc. At present, both sides have reached consensus on work plan for the year 2014 and will come to the implementation phrase very soon.

IV.B.4.COMPETITION POLICY UPDATES

IV.B.4.1. *China-Canada Anti-monopoly Conference*

China-Canada Anti-monopoly Conference was held in Beijing on 14 January 2014. Canada's Commissioner of Competition Bureau was also present at the conference. The two countries exchanged views on deepening China-Canada cooperation in anti-monopoly enforcement. It was noted during the conference that China-Canada trade and economic cooperation had maintained a sound development momentum in recent years.

With respect to the efforts made by the two parties respectively, each country briefed on the latest development in domestic institutional setup, supporting legislation, review of key cases and international cooperation and exchanged views on future cooperation mode, key cases of concentration of undertakings, the relationship between competitive enforcement authorities and industrial administration authorities and the relationship between intellectual property right protection and anti-monopoly enforcement.

The two countries also discussed the draft Memorandum of Understanding (MOU) on Anti-monopoly between China and Canada and reached consensus in the scope and mode of cooperation and agreed to sign the MOU in due time.[59]

IV.B.4.2. *China - U.S. High-level Dialogue on Anti-monopoly*

China-US High-level Dialogue on Anti-monopoly (Dialogue) was held in Beijing, China on 9 January 2014. Representatives from China's antimonopoly enforcement authorities briefed on the progress made over the past year in supporting legislation for anti-monopoly, law enforcement of major cases, publicity and training and international cooperation as well as priorities of law enforcement and work plans in 2014. The US also briefed on the development in its enforcement of

[59] MOFCOM, 15 January 2-14, available at:
http://english.mofcom.gov.cn/article/newsrelease/significantnews/201401/20140100464678.shtml

anti-monopoly. Two parties also discussed the relationship between anti-monopoly and intellectual property rights as well as the status of competition policy.[60]

V. TRADE POLICY BY SECTOR

V.A. AGRICULTURE

Agriculture is a vital industry in China, employing over 300 million farmers. China ranks first in worldwide farm output, primarily producing rice, wheat, potatoes, sorghum, peanuts, tea, millet, barley, cotton, oilseed, pork, and fish. Although accounting for only 10 percent of arable land worldwide, it produces food for 20 percent of the world's population.

Due to China's status as a developing country and its severe shortage of arable land, farming in China has always been very labor-intensive. However, throughout its history various methods have been developed or imported that enabled greater farming production and efficiency. They also utilized the seed drill to help improve on row farming.

No major intervention by China in the field of agriculture trade was noticed during the quarter in question.

V.A.1. CROP DISTRIBUTION

V.A.1.a. *Agricultural regions of Mainland China*

Although China's agricultural output is the largest in the world, only about 15% of its total land area can be cultivated. China's arable land, which represents 10% of the total arable land in the world, supports over 20% of the world's population. Of this approximately 1.4 million square kilometers of arable land, only about 1.2% (116,580 square kilometers) permanently supports crops and 525,800 square kilometers are irrigated. The land is divided into approximately 200 million households, with an average land allocation of just 0.65 hectares (1.6 acres).

China's limited space for farming has been a problem throughout its history, leading to chronic food shortage. While the production efficiency of farmland has grown over time, efforts to expand to the west and the north have met with limited success, as such land is generally colder and drier than traditional farmlands to the east. Since the 1950s, farm space has also been pressured by the increasing land needs of industry and cities.

V.A.1.B. *Food crops*

[60] MOFCOM, 13 January 2014, available at: http://english.mofcom.gov.cn/article/newsrelease/significantnews/201401/20140100461516.shtml

About 75% of China's cultivated area is used for food crops. Rice is China's most important crop, raised on about 25% of the cultivated area. The majority of rice is grown south of the Huai River, in the Yangtze valley, the Zhu Jiang delta, and in Yunnan, Guizhou, and Sichuan provinces.

Wheat is the second most-prevalent grain crop, grown in most parts of the country but especially on the North China Plain, the Wei and Fen River valleys on the Loess plateau, and in Jiangsu, Hubei, and Sichuan provinces. Corn and millet are grown in north and northeast China, and oat is important in Inner Mongolia and Tibet.

At the 2014 China Agriculture Outlook Conference, Xu Shiwei, AII Director General, released the China Agriculture Outlook Report (2014-2023), the first of its kind in China.

According to the Report, in the next decade, new-type operation system will instill more vitality to agricultural production, and agricultural development patterns will continue to transform mainly driven by and science and technology advancement.

The Report points out that agriculture in China will continue to enjoy a favorable policy environment, and the application of IT technology will bring new opportunities for agriculture.

Meanwhile, China will face rising production constraints due to scarcity of land and water resource and increasing risks in production caused by climate change. Despite that the demand growth for agricultural products will be slightly higher than production growth.

General speaking, production of major agricultural products will show a steady and upward trend in the next decade. The output of rice, wheat, sugar and vegetables will increase steadily. The output of aquatic products, beef, mutton, feed, maize, oil seeds, poultry and eggs will grow rapidly. The growth of meat production will fall slight behind consumption growth, and the import is expected to rise. The dairy production will grow by an average annual rate of 3.5%, the fastest among the products covered by the Report.

Cooking oil production will increase steadily, leading to a decline in import. Soybean import growth will slow down substantially with the annual import volume expected to reach 73 million tons in 2023. Cotton production, as affected by changing policies, will fall in terms of planting area and output while its consumption will grow slowly. There will be robust growth in sugar consumption while its production growth is expected to be mild, leading to a drop in self-sufficiency level.

Feed production is expected to grow at an annual rate of 2.3% mainly due to growth in compound feed production while feed consumption will also grow steadily. Strong growth will be seen in demand for major agricultural products with over 2% annual growth for aquatic products, milk, maize, sugar and fruits and moderate growth for meat, wheat, rice, cotton and vegetables. China will maintain a high level of self-sufficiency in rice, wheat and maize, and achieve the goal of general sufficiency in grains and absolute security of food grain.

The demand of poultry, eggs, vegetables and fruits for processing will grow rapidly, but the trade balance of these products will remain in surplus. Aquatic production will continue to increase due to development in aquaculture. The Report concluded that agriculture in China will continue to provide fundamental support to China's economic development, and China will make new contributions to world food security and safety

V.A.2. BIOTECHNOLOGY

China rejected 21,800 tonnes of U.S. corn after detecting an unapproved genetically modified corn strain (GMO).The total rejection of corn shipments from the United States amounts to 908,800 tonnes since November 2013. The corn was rejected because the shipments contained MIR 162 corn, a GMO strain developed by Syngenta AG which is not approved for import by China's agriculture ministry.[61]

Biotechnological advances in the global trade of soybeans have come up in recent trade talks in China as the International Soy Growers Alliance (ISGA), a group that comprises soybean producers from the US, Brazil, Argentina, Paraguay and Uruguay, has been meeting with agricultural officials over the last few weeks in China to promote the infrastructure for continued import growth. The discussion focussed on the importance of timely biotech approvals in order to meet food demands in China and across the globe. It is estimated that China will require approximately five million more incremental metric tons per year of soybeans over the next decade to meet its food security needs highlighting the importance of adoption of new technologies, including biotechnology[62]

V.A.3. PHARMACEUTICLAS

China's pharmaceutical industry despite slow economies in the European Union and United States, has managed steady growth in 2013, official data showed. Main business revenues in the industry amounted to 2.17 trillion yuan (355.4 billion U.S. dollars) last year, a year-on-year increase of 17.9 percent, said a statement on the website of the National Development and Reform Commission. The pharmaceutical industry saw profits rise 17.6 percent to 219.7 billion yuan last year, with fast growth seen in Traditional Chinese Medicine, according to the commission. Exports and imports in the industry totalled 89.7 billion U.S. dollars, rising 10.3 percent from the year earlier. Exports gained 6.8 percent while imports jumped 15.2 percent[63]

The China Food and Drug Administration has launched a five-month national campaign to ensure proper product standards in the medical devices industry. The campaign will inspect manufacturers across a range of medical devices. Food and drug authorities in provinces around the

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[61]China Rejects More U.S. Corn Due to MIR 162-Xinhua, , http://www.reuters.com/article/2014/03/25/china-corn-usa-idUSB9N0ME00820140325 (last visited May 3, 2014).
62 Global Soybean Talks Focus on Biotechnology Issues, http://usa.chinadaily.com.cn/world/2014-04/07/content_17411446.htm (last visited May 3, 2014).
[63] *China Pharmaceutical Industry Sees Steady Growth*, http://cz2.mofcom.gov.cn/article/chinanews/201402/20140200499213.shtml (last visited May 3, 2014).

country are also being asked to investigate manufacturers of category two and category three medical devices and provide authentic reports of clinical trials within their applications for permission to manufacture them on a large scale[64].

V.A.4. AUTOMOTIVE

In 2014, China's automobile production and sales market showed rapid growth with the growth in car sales being more than 10%. In January 2014, volume of automobile export was 88,600, an increase of 7.9% and automobile export amounted of $ 1.258 billion, an increase of 16.9%. Automobile import was 111,000, an increase of 57.6% and automobile imports amounted to $ 4.993 billion, an increase of 67.0%.[65] In February national sales were 1,637,500 and 1,596,400, sales were down 20.2% and 26.0%, respectively and grew 21.5% and 17.8%, respectively.

China announced its used cars subsidies for 1 January 2014 and 31 December 2013, the subsidy standard for each vehicle 18,000 yuan[66].

China has informed its armed forces to choose domestic brand cars when procuring military vehicles. Purchase of new military cars should be arranged within a centralized system and vehicles have be selected from domestic brands, said the document issued by the four headquarters of the Chinese People's Liberation Army (PLA) -- General Staff Headquarters, General Political Department, General Logistics Department and General Armament Department. The document, aimed to promote frugality and oppose waste among military and armed police forces.[67]

China is giving more subsidies for electric cars than the previously announced and extended the incentive program beyond 2015 to help reduce air pollution. The government decreased the subsidies by 5 percent in 2014, instead of the 10 percent it announced previously, and cut the incentives by 10 percent in 2015, instead of 20 percent, according to a statement released by the Ministry of Finance

China will continue the existing subsidies subsidize electric vehicles after the current program expires at the end of 2015, the statement said. China announced in September 2013 that it

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[64] Government notification available at: http://www.miit.gov.cn/n11293472/n11293832/n13095885/15940598.html (last visited May 3, 2014).

[65] Government notification available at: http://www.miit.gov.cn/n11293472/n11293832/n11294132/n12858417/n12858612/15921091.html (last visited May 3, 2014).

66 Government notification available at: http://www.mofcom.gov.cn/404.shtml (last visited May 3, 2014).

[67] Military Required to Purchase Domestic Brand Cars, , http://www.chinadaily.com.cn/bizchina/motoring/2014-01/14/content_17234108.htm (last visited May 3, 2014).

would offer as much as 60,000 Yuan ($9,906) for each purchase of an all-electric passenger vehicle and 35,000 Yuan for plug-in hybrid cars[68]

V.A.5. INFORMATION TECHNOLOGY

The decline in exports expanded whereas the decline in imports fell. In January-February, China's total import and export of electronic information products $ 183 billion falling by 6.2%; which exports were $ 107.7 billion 6.9%, lower than the national export growth rate 5.3 percentage points, the proportion of the country's total foreign trade export 33.5% over the previous year fell 1.8 percent. Imports of $ 75.3 billion, 5.3%, lower than the national growth rate of foreign trade imports 15.3 percent; the proportion of the country's total imports of foreign trade was 24.1%, representing a decrease of 4.1 percentage points from the previous year. February month in business before the holiday "export when looting" and the Festival "import first" operating under the influence of habit, exports $ 44.7 billion, a decrease of 12.8%, a decline of 10.5 percentage points higher than the expansion in January; imports of $ 33.3 billion , down 2.2%, a decline narrowed 5.4 percentage points higher than in January. Second, the main features of (a) the level of the major industry growth rate over the same period saw declines in communications equipment, electronic components industry growing faster than the industry average; computers, home audio-visual equipment industry growth rate to continue dropping[69].

In 2014 January-February, China's software and information technology services continues steady since last year, slowing momentum of development: software revenue growth down, slowing the traditional industries, software exports continue to slump, but the benefits of steady growth, Emerging areas continued to flourish. Specific exhibits the following characteristics: a slowdown (a) revenue growth, profit remained stable from January to February, China's software and information technology services for software revenue 466.7 billion yuan, an increase of 21.5% growth over last year dropped 3.9 percentage points. Total profit of 48.2 billion yuan, an increase of 23 percent, 8 percentage points higher than the same period last year, 1.5 percentage points higher than the revenue growth[70].

VI. WTO DISPUTES DURING THE QUARTER

VI.A. Panels established at the request of China

The Dispute Settlement Body, on 26 March 2014, established three panels: at the request of Japan

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[68] *China to Extend Electric Car Subsidies Beyond 2015,* , http://www.chinadaily.com.cn/bizchina/motoring/2014-02/11/content_17278013.htm
(last visited May 3, 2014).
[69] Government notification available at:
http://www.miit.gov.cn/n11293472/n11293832/n11294132/n12858462/15939346.html.
[70]Government notification available at :
http://www.miit.gov.cn/n11293472/n11293832/n11294132/n12858477/15938119.html.

on Ukraine's safeguard measures on cars, at the request of China on US anti-dumping measures, and at the request of Indonesia on Australia's plain-packaging requirements for tobacco products.[71]

VI.B. WTO issue panel reports on China's rare earths exports

On 26 March 2014, the WTO issued the dispute panel reports in the case "China – Measures Related to the Exportation of Rare Earths, Tungsten, and Molybdenum" (WT/DS431/R, WT/DS432/R and WT/DS433/R).[72]

This dispute concerns Chinese export restrictions on rare earths, tungsten, and molybdenum. These are raw materials used in the production of various kinds of electronic goods. China argued that the restrictions are related to the conservation of its exhaustible natural resources, and necessary to reduce pollution caused by mining. The complainants disagreed, arguing that the restrictions are designed to provide Chinese industries that produce downstream goods with protected access to the subject materials.[73]

China imposes three distinct types of restrictions on the export of rare earths, tungsten, and molybdenum: *first*, it imposes duties (taxes) on the export of various forms of those materials; *second*, it imposes an export quota on the amount of those materials that can be exported in a given period; *third*, it imposes certain limitations on the enterprises permitted to export the materials.[74]

- ***Export Duties***

  Complainants Contentions

⇒ The complainants alleged that China applies export duties on various forms of rare earths, molybdenum, and tungsten.

⇒ The complainants argued that these duties are inconsistent with China's WTO obligations because in its Accession Protocol, China undertook to eliminate all export duties, except for those imposed on a number of products listed in Annex 6 to China's Accession Protocol.

⇒ The complainants argued that, with the exception of tungsten ores and concentrates (which they excluded from the scope of their claim), none of the products at issue are included in Annex 6, and China is therefore not entitled to impose the export duties on them.

China's Response

⇒ China acknowledged that the duties at issue were imposed on products that are not included in the relevant Annex, but sought to justify its imposition of export duties on the basis of the "General Exceptions" provision in Article XX of the GATT. Specifically, Article XX(b) allows WTO Members to maintain measures that would otherwise be inconsistent with the

[71] WTO, Dispute Settlement Updates, available at: http://www.wto.org/english/news_e/archive_e/dis_arc_e.htm.
[72] *Id.*
[73] *Id.*
[74] *Id.*

GATT 1994 if the measures are necessary to protect human, animal or plant life or health. In this case, China argued that the export duties are necessary to protect human, animal and plant life and health from the pollution caused by mining the products at issue. The complainants argued that the "General Exceptions" contained in Article XX of the GATT 1994 are not available to justify breaches of China's obligation to eliminate export duties contained in China's Accession Protocol and that, in any event, China's export duties were not necessary for the protection of human, animal or plant life or health.

Decision by the Panel

⇒ The majority of the Panel agreed with the complainants and found that the "General Exceptions" contained in Article XX of the GATT 1994 are not available to justify a breach of the obligation to eliminate export duties contained in China's Accession Protocol. Accordingly, the majority held that China could not invoke the exception in Article XX(b) to seek to justify its export duties. One panelist disagreed and concluded in a separate dissenting opinion that the "General Exceptions" in Article XX of the GATT 1994 are available to justify all WTO obligations related to trade in goods unless an obligation explicitly provides otherwise, and the relevant obligation in China's Accession Protocol does not explicitly provide otherwise.

⇒ The Panel nonetheless examined the merits of China's Article XX(b) defence for its export duties on an *arguendo* basis so that, in the event of an appeal and reversal on the applicability of the provision, the Appellate Body would have on the record the Panel's relevant factual findings in this regard. All of the panelists agreed that even if Article XX(b) were available to justify China's export duties, those duties were not "necessary to protect human, animal, or plant life or health", as required under Article XX(b). Under the circumstances, China's imposition of the export duties in question was found to be inconsistent with China's WTO obligations.

- **Export Quotas**

⇒ China also imposes quantitative limits (quotas) on the amount of rare earths, tungsten, and molybdenum that can be exported in a given period. Although it recognized that such restrictions are inconsistent with the GATT 1994, China argued that they are justified under the exception in Article XX(g) of the GATT 1994, since they relate to the conservation of an exhaustible natural resource.

⇒ The Panel did not agree. It found that China's export quotas were designed to achieve industrial policy goals rather than conservation. The Panel agreed with China that the term "conservation" in Article XX(g) means more than simply "preservation" of natural resources, and that every WTO Member can take its own sustainable development needs and objectives into account when designing a conservation policy, in accordance with the general international law principle of sovereignty over natural resources reflected in various United Nations and other international instruments. However, the Panel held that "conservation" does not allow Members to adopt measures to control the international market for a natural resource, which is what the challenged export quotas were, in the view of the Panel, designed to do.

⇒ Additionally, the Panel found that the challenged export quotas do not work together with measures restricting domestic Chinese use of rare earths, tungsten, and molybdenum, as required by the second part of Article XX(g). After examining the various domestic measures that China claimed restricted domestic access to rare earths, tungsten, and molybdenum, the Panel concluded that the overall effect of the foreign and domestic restrictions is to encourage domestic extraction and secure preferential use of those materials by Chinese manufacturers. Under the circumstances, the Panel concluded that the "even-handedness" required by the Appellate Body under Article XX(g)had not been met, and hence the quotas could not be justified under that provision.

- ***Trading Rights***

⇒ China imposes certain restrictions on the right of enterprises to export rare earths and molybdenum. Although China has committed to eliminating trading restrictions in its Accession Protocol, it argued that the restrictions in question are justified pursuant to Article XX(g), since they too relate to the conservation of exhaustible natural resources. Although the Panel found that China could rely on the Article XX exceptions to justify the restrictions in question, it found that China had not satisfactorily explained why its trading rights restrictions were justified under this provision. Accordingly, the Panel concluded that China's trading rights restrictions breach its WTO obligations.

VI.C. China — Countervailing and anti-dumping duties on grain oriented flat-rolled electrical steel from the United States

At the request of the United States, the DSB established a compliance panel under Article 21.5 of the Dispute Settlement Understanding (DSU) to study China's compliance in this dispute. Members reserving third-party rights were Japan, the European Union, Russia and India.[75]

[75] *Id.*

ANNEXURE

WTO TBT NOTIFICATIONS

Notification **Date of Notification**	**Product**	**Description**	**Objective**
G/TBT/N/CHN/1015 **20 December 2013**	Ceramic cartridge faucets	Articles 7.4, 7.6.2, 7.6.3.1 and 7.6.9 of this standard are mandatory, the rest are recommended. The mandatory contents are the limited precipitation of metal contaminants, sealing performance, faucets flow and life for ceramic cartridge faucets.	Saving water and protecting water resources.
G/TBT/N/CHN/1018 **31 January 2014**	Medical devices	Based on the original two broad categories of 'active medical devices' and 'passive medical devices', 'IVD reagent' and related content is added to the revised draft as a new class. Principles of classification for the medical devices set, accessories to medical devices and independent software's are defined. According to EU and GHTF classification documents, the contents of 'medical dressings', devices for surgical insertion are detailed, and the terms for 'consecutive use' and 'implantable Devices' are standardized.	Safety and health

		The lowest management class of 'sterile medical devices' is Class II. Some of 'laboratory equipment' and 'other active medical devices or active auxiliary equipment' may belong to Class III.	
G/TBT/N/CHN/1019 **4 February 2014**	Cosmetics	According to the current cosmetics regulation framework, the concerned agency (CFDA) will adjust the approval model of cosmetic new ingredient registration from Approval Announcement to Approval Document. The period of validity is 4 years, and the document will become invalid automatically when it expires. After approval, the companies of cosmetic new ingredients should carry out the obligations of the safety risk monitoring and reporting during the cosmetic new ingredients applied to the products. When the approval document expires, the cosmetic new ingredient could be treated as the ingredient already in use, if the assessment of it doesn't show any problem during the period of validity.	Human health.
G/TBT/N/CHN/1020	Medical Devices	This Catalogue is composed of 29 sub-catalogues, of which "6823 medical ultrasonic instrument and accessories", "6830 medical X-ray	Safety and health

31 March 2014		device", "6831 medical X-ray accessory equipment and parts" and "6834 medical radiation protective equipment and device" are consistent with the 4 sub-catalogues released in 2012, the others are newly formulated. In the Catalogue, "serial number" "examples for the name of article" and "management classification" are retained, "name" is extended to "product category" and "product category name", while 2 items, "product description" and "intended use" are newly added. In total it includes 139 product categories, 339 product category names and 1785 examples for the name of article.	
G/TBT/N/CHN/1021 **31 March 2014**	Medical devices	In these sub-catalogues, items including "serial number", "examples for the name of article" and "classification" are retained, "name" is extended to "product category" and "product category name", while 2 items, "product description" and "intended use" are newly added. There are totally 17 product categories, 57 product category names and 276 examples for the name of article. In the sub-catalogue of 6863, Dental materials, 14 examples for the name of article such as "dental composite implant materials" are removed, and "tooth whitening agents" is modified to "tooth bleaching agents". In the sub-catalogue of 6864 Medical sanitary materials and dressings, "gynaecological materials", "orthopaedic fixation devices" and	Safety and health

		"physiotherapy paste" are removed. In the sub-catalogue of 6865 Medical suture materials and adhesives, "gastrointestinal suturing nail" is added and classified to class II.	

ANNEXURE B

ANTI-DUMPING

Reference Number	Merchandise	Action
2, 2014	Coated paper from Japan and South Korea	**Expiry Review:** According to Article 48 of the Anti-dumping regulations, the anti-dumping duty on duration and price commitments to fulfill a period not that must not exceed five years. However, upon review it was determined that the termination of anti-dumping duty was likely to lead to continuation of dumping and injury, or again occurring anti-dumping duty period may be extended. From the date of this announcement, on behalf of the domestic industry, the domestic industry or natural person, legal person or relevant organizations in the anti-dumping measures 60 days before the maturity date, in writing to the Ministry of Commerce of the final application for review. The application shall contain the requirements expressly terminated the anti-dumping measures and final review will likely lead to sufficient evidence of dumping and continuation or recurrence of injury. If the domestic industry or on behalf of the domestic industry natural persons, legal persons or organizations concerned fails to apply for review of the notice provisions in the anti-dumping measures before the maturity date, the Commerce Department also did not initiate the investigation of the final review, the above anti-dumping measures in 2014 from August 5 suspended.
4, 2014	Solar-grade polysilicon imports originating in the United States	**Countervailing investigations final determination**
5, 2014	Solar-grade polysilicon originating in the United States and South Korea	**Final determination of AD investigations; imposition of ADD for five years**
6, 2014	Solar-grade polysilicon	**Preliminary ruling in countervailing investigations:**

	originating in the EU	Within the investigated period for the case, the investigated products from the EU were dumped to China, and China's polysilicon industry was materially injured, and there is a cause-effect relationship between the dumping and the material injury.
7, 2014	Solar-grade polysilicon originating in the EU	**Preliminary ruling anti-dumping investigations:** Within the investigated period for the case, the investigated products from the EU were subsidized, and China's polysilicon industry was materially injured, and there is a cause-effect relationship between the subsidy and the material injury. Owing to the specificity of the EU case, the MOFCOM has decided not to impose provisional anti-subsidy measure on the investigated products for now.
10, 2014	Pulp from the United States, Canada and Brazil	**Extension of anti-dumping cases to 02-04-14:** The Ministry of Commerce (MOFCOM) released Announcement No.10, 2013 on 6 February 2014 on its decision to launch an anti-dumping investigation against pulp imports from US, Canada and Brazil. The investigation cover cellulose pulp, dissolving pulp, dissolving wood pulp, cotton linter pulp and bamboo pulp. Tariff No. of the investigated product are 47020000, 47061000 and 47063000 under Import and Export Tariffs of the People's Republic of China. MOFCOM will in line with the Regulations of the People's Republic of China on Anti-dumping, start investigation on dumping and dumping margin of the said products, as well as the injury and its extent to pulp industry in China, and then make decision according to law.
9, 2014	X-ray security equipment from EU	**Upon review, the investigating authority decided it is not considered necessary to maintain the original AD measures:** On 10 January 2014, in accordance with the Regulations of the People's Republic of China on Anti-dumping and the Interim Rules for the Implementation of WTO Trade Remedies and Dispute Settlements, the Ministry of Commerce (hereinafter referred to as the "Investigation Authority") released Announcement No.1 of the year, initiating the reinvestigation into the report of expert group carrying out the dispute case of "China's implementation of anti-dumping measures against imports of X-ray security inspection equipment originated in the EU". During the period of reinvestigation, the applicant of original anti-dumping case, on behalf of the domestic industry, submitted an application to the Ministry of Commerce to revoke the original anti-

		dumping measures. Upon examination, the Investigation Authority has determined that it is not necessary to maintain the original anti-dumping measures. Upon the consent of the Customs Tariff Commission of State Council, and in accordance with Article 57 of the Regulations of the People's Republic of China on Anti-dumping and Articles 2 and 6 of the Interim Rules for the Implementation of WTO Trade Remedies and Dispute Settlements, the Ministry of Commerce has decided to cease the anti-dumping taxes against imports of X-ray security inspection equipment originated in the EU as of 19 February 2014. The Product is listed under tariff No. 90221910 in the Customs Import and Export Tariff of the People's Republic of China.
11,2014	Perchlorethylene originating in EU and the US	**Preliminary ruling on anti-dumping investigation:** It is preliminarily ruled by the Investigation Authority that, during the investigation period of this case, imports of perchlorethylene originated in the EU and the U.S. were involved in dumping and the perchlorethylene industry of China was materially injured, and there was causality between the dumping and material injury. As of 18 February 2014, import operators shall, according to the dumping margin of each company as determined in this preliminary ruling, pay relevant deposits to the Customs when importing perchlorethylene originated in the EU and the U.S.. The deposit shall be levied by means of ad valorem on the basis of dutiable value authorized by the Customs, and the calculation formula is: Deposit = (dutiable value authorized by the Customs x rate of deposit) x (1 + rate of import value-added tax).
13, 2014	Catechol originating in the EU	**Expiration of ADD in August 2014:** On 25 August 2009, Ministry of Commerce of the People's Republic of China (hereinafter referred to as the "Ministry of Commerce") issued Announcement No.53 of 2009, deciding to continue to impose anti-dumping duties against imports of pyrocatechol originated in EU; i.e. such anti-dumping measures were extended for five years as of 26 August 2009 and will expire on 25 August 2014.
19, 2014	Wine from the EU	**Notice of AD and CV investigation:** In accordance with the provisions of the Regulations of the People's Republic of China on Anti-dumping and the Countervailing Regulation of the People's Republic of China, the Ministry of Commerce released the Announcements No.36 and 37 of 2013 on July 1, 2013, deciding to launch anti-dumping and countervailing investigations against imports of wine originated in the EU (hereinafter referred to as the "Product

		Under Investigation"). The Ministry of Commerce conducted investigations into the Product Under Investigation to find out whether there is dumping and the dumping margin, the subsidy and amount of subsidy, as well as whether it causes damage to the domestic industry and the degree of damage. On 19 March 2014, the applicant of the case, China Alcoholic Drinks Association applied on behalf of China's wine industry for withdrawing its previous application for anti-dumping and countervailing investigations against the imports of wine originated in the EU, and requested terminating such anti-dumping and countervailing investigations. In accordance with Article 27 of the Regulations of the People's Republic of China on Anti-dumping and Article 28 of the Countervailing Regulation of the People's Republic of China, the Ministry of Commerce decided to terminate the anti-dumping and countervailing investigations against the imports of wine originated in the EU as of the date of issuance of this Announcement.[76]
17, 2014	Preformed optical fiber from Japan and US	**Investigation:** The Ministry of Commerce of the People's Republic of China (hereinafter referred to as "the Ministry of Commerce") received, on 22 January 2014, the written petition for anti-dumping investigation formally submitted by Yangtze Optical Fibre and Cable Company Ltd., Jiangsu Hengtong Photoelectric Stock., Ltd. and Futong Group Co., Ltd. (hereinafter referred to as "the Petitioners") on behalf of domestic optical fiber preform, in which the Petitioners requested an anti-dumping investigation to be carried out against imports of optical fiber preform originated in Japan and the U.S.. In accordance with relevant provisions of the Regulations of the People's Republic of China on Anti-dumping, the Ministry of Commerce conducted an examination on qualification of the Petitioners, relevant conditions of imported products, similar products in China, impact on the domestic industry of the imported products and countries involved. The Ministry of Commerce also reviewed the evidence of dumping, injury and the causal link between dumping and injury provided in the petition. The evidence initially provided by the Petitioners suggests that, the total output of optical fiber preform of the Petitioners and Jiangsu Fasten Photonics Co., Ltd., Fiberhome Telecommunication Technologies Co., Ltd, Zhongtian Technology Precision Materials Co. Ltd., which support the petition, in 2010, 2011, 2012 and 2013 accounted for more than 50% of the total output of similar products in China, which complies with the requirements of Articles 11, 13 and 17 of the Regulations of the People's Republic of China on Anti-dumping on petitioning for anti-dumping investigation

[76] MOFCOM, 28 March 2014, available at:
http://english.mofcom.gov.cn/article/policyrelease/buwei/201404/20140400544713.shtml

		by domestic industry. Meanwhile, the petition contains the contents and related evidence required for anti-dumping investigation as stipulated in Articles 14 and 15 of the Regulations of the People's Republic of China on Anti-dumping. In accordance with the examination results above and the provisions of Article 16 of the Regulations of the People's Republic of China on Anti-dumping, the Ministry of Commerce decided to initiate an anti-dumping investigation against imports of optical fiber preform originated in Japan and the U.S. as of 19 March 2014. [77]
15, 2014	SBR from Russia	**Notice of expiry review:** On 7 September 2009, the Ministry of Commerce of the People's Republic of China (hereinafter referred to as the "Ministry of Commerce") issued Announcement No.62 of 2009, deciding to continue to impose anti-dumping duties against imports of styrene butadiene rubber originated in Russia, Japan and South Korea; i.e., such anti-dumping measures were extended for five years as of 8 September 2009 and will expire on 7 September 2014.[78]

[77] MOFCOM, 21 March 2014, available at: http://english.mofcom.gov.cn/article/policyrelease/buwei/201403/20140300529233.shtml
[78] MOFCOM, 12 March 2014, available at: http://english.mofcom.gov.cn/article/policyrelease/buwei/201403/20140300514761.shtml

ANNEXURE C
SANITARY AND PHYTOSANITARY MEASURES

NOTIFICATION	PRODUCT	PURPOSE	DESCRIPTION
G/SPS/N/CHN/636 11 March 2014	Irradiated foods	Food Safety	This standard applies to foods processed by ionizing radiation. This standard contains the terms and definitions, technical requirements etc
G/SPS/N/CHN/638 11 March 2014	Health Food	Food Safety	This standard applies to all kinds of health food
G/SPS/N/CHN/639 11 March 2014	Bean Products	Food Safety	This standard applies to bean products.
G/SPS/N/CHN/642 11 March 2014	Chewing Gum	Food Safety	This standard applies to chewing gum. This standard contains the terms and definitions, technical requirements etc
G/SPS/N/CHN/643 11 March 2014	Gluten	Food Safety	This standard applies to gluten.
G/SPS/N/CHN/644 11 March 2014	Puffed Foods	Food Safety	This standard prescribes puffed foods
G/SPS/N/CHN/635 10 March 2014	Foods	Food Safety	This regulation establishes 164 maximum residue limits (MRLs) for 91 pesticides, including 2,4-D, etc. in foods
G/SPS/N/CHN/649 11 March 2014	Gourmet Powder	Food Safety	This standard applies to gourmet powder
G/SPS/N/CHN/648 11 March 2014	Edible Oil Seeds	Food Safety	This standard prescribes edible oil seeds.
G/SPS/N/CHN/647 11 March 2014	Edible Oil	Food Safety	This standard prescribes edible oil products, including hydrogenated oil, margarine, shortening and cocoa butter substitute etc.
G/SPS/N/CHN/646 11 March 2014	Edible Animal Oils	Food Safety	This standard prescribes edible animal oils, including lard, beef fat and mutton tallow
G/SPS/N/CHN/645 11 March 2014	Fresh edible fungi and products	Food Safety	This standard applies to fresh edible fungi and products with edible fungi as the main raw material, processed by the corresponding process, including dried, pickled, and instant

			edible fungi etc.