



TRADE POLICY DEVELOPMENTS PAPER NO. 29

Trade Policy Monitoring Report

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Prepared by

James J. Nedumpara & Aakanksha Sharma

Prepared by the Centre for International Trade and Economic Laws (CITEL), Jindal Global Law School, Sonapat, for Center for WTO Studies, Indian Institute of Foreign Trade (IIFT).

Table of Contents

Executive Summary.....	3
Economic Environment	5
International Trade	9
Foreign Direct Investment	10
Trade Agreements and Economic Cooperation	11
Customs and other Border Measures.....	15
Technical Barriers to Trade	16
Sanitary and Phytosanitary Measures	17
Other Investment Measures	17
Contingency Trade Protection	18
WTO Dispute Settlement Update	24

Executive Summary

- The Chinese economy which grew at more than 10% for the most part of the last two decades, slowed for a seventh straight quarter in July-September, and dipped to 7.4% - its weakest rate since the first quarter of 2009
- In the first three quarters, China's import & export totalled US\$ 2842.47 billion with export at US\$ 1495.39 billion and import at US\$ 1347.08 billion.
- In the first three quarters of 2012, foreign direct investment (FDI) flows into China saw a 3.8% decline from the same period one year ago.
- In June 2012, China included olive oil and distillers' grains (HS 1509.10.00; 1509.90.00; 1510.00.00; 2303.30.00) in the Catalogue of staple agricultural products subject to import report administration.
- Export quota on Rare Earths: The criteria for second batch of rare earth export quotas distribution was notified by the MOFCOM on 16 August 2012. The quota will be calculated on the basis of the actual export performance of the relevant enterprises from 2009 to 2011.
- China initiated seven new antidumping investigations during the period May- September 2012. Trends indicate that antidumping actions are again rising in China.
- On 13 September 2012, Ministry of Health issued National Food Safety Standard of the People's Republic China, the Labelling of Pre-packaged Foods for Special Dietary.
- This standard applies to the labelling of pre-packaged foods for special dietary uses. This document has been notified to the Committee on Sanitary and Phytosanitary Measures in G/SPS/N/CHN/542. This standard adds some specific rules about formulas for special medical purposes and formulas for special medical purposes intended for infants.
- On 17 September 2012, the United States notified the WTO Secretariat of a request for consultations with China on "China's measures providing subsidies such as grants, loans, forgone government revenue, the provision of goods and services and other incentives contingent upon export performance to automobile and automobile-parts enterprises in China.

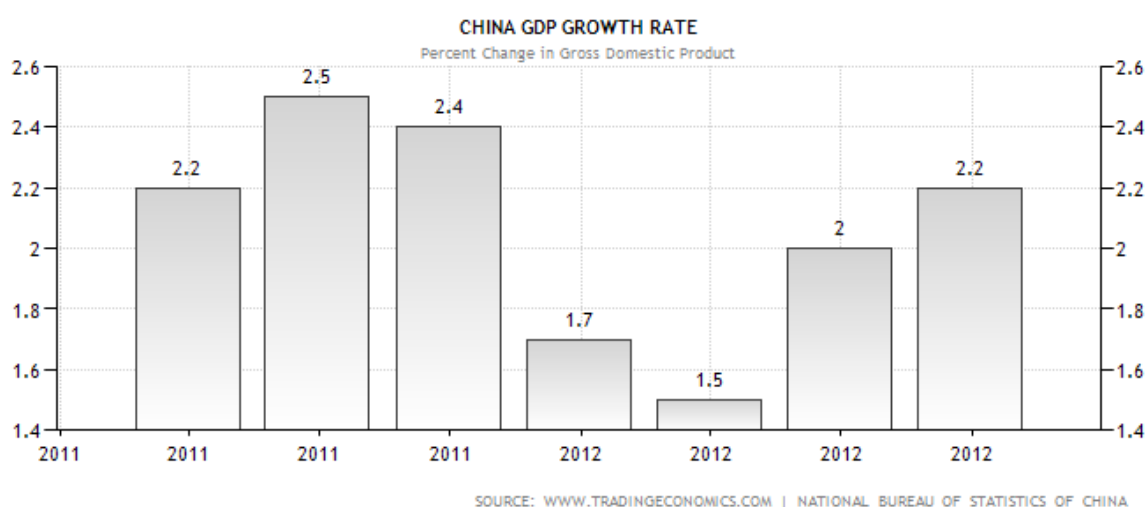
AGENDA FOR NEXT REPORT

1. The WTO dispute in the rare-earth dispute will be of considerable interest to India although India is not a respondent in this case.
2. The Sixth Triennial Review Report of the TBT Committee is scheduled to take place in upcoming quarter. The next will closely monitor the specific trade concerns raised by the WTO members.
3. The developments in China's Anti-Dumping Investigation against Imported Pyridine originating In India and Japan will be examined.

People's Republic of China – Trade Policy Monitoring Report for the Quarter(Jul-Sep, 2012)

Economic Environment

China's economic growth has slowed since early last year (2011).¹The Chinese economy which grew at more than 10% for the most part of the last two decades, slowed for a seventh straight quarter in July-September, and dipped to 7.4% - its weakest rate since the first quarter of 2009.²



Source: Trading Economics, 'China's GDP Growth Rate', <http://www.tradingeconomics.com/china/gdp-growth/>

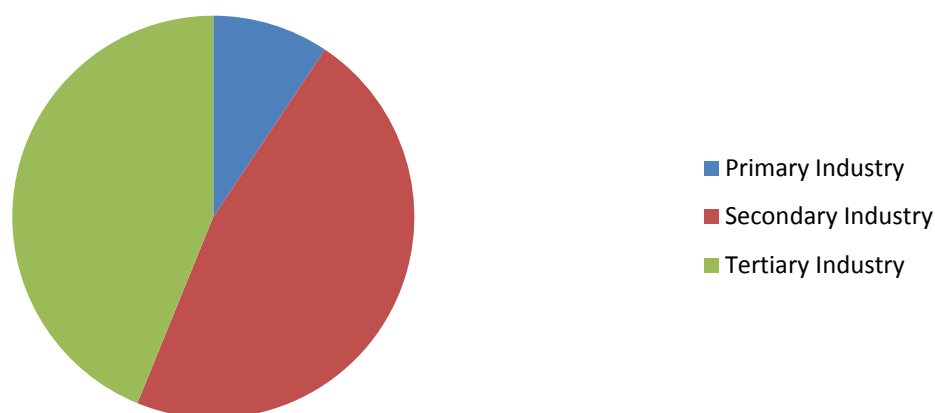
Absolute value calculated at current price of GDP growth for the third quarter was 35348000 million RMB which can be sub-divided into:³ (i) Primary Industry – 3308800 million RMB; (ii) Secondary Industry – 16542850 million RMB; and (iii) Tertiary Industry – 15496350 million RMB.

¹Jakarta Globe, 'China's Economy Slows to 7.4% in Third Quarter', <http://www.thejakartaglobe.com/business/chinas-economy-slows-to-74-in-third-quarter/550898> (visited 13 December 2012).

²Reuters: UK, 'China to stick with 7.5 percent economic growth target in 2013: sources', <http://uk.reuters.com/article/2012/12/07/us-china-economy-targets-idUKBRE8B606320121207>. (visited 13 December 2012).

³National Bureau of Statistics of China, 'Gross Domestic Product (GDP) (1-3 Quarters, 2012)', http://www.stats.gov.cn/english/statisticaldata/Quarterlydata/t20121025_402845438.htm (visited 13 December 2012).

GDP Growth by Industry, China Q3 (Jul-Sep, 2012)



China's Monetary Policy for the 3rd Quarter

The monetary policy report for Q3 released by PBC on November 2, 2012 speaks of the importance of 'pre-emptive, targeted and flexible' adjustments to monetary policy, which should try to strike a balance among economic growth, price stability and controlling risks.⁴

Deposits and Loans

On 5 July 2012, the People's Bank of China (PBC) decided to lower the RMB benchmark deposit and loan interest rates of financial institutions as of July 6, 2012. The one-year RMB benchmark deposit rate was cut from 3.25 % to 3 %, The one-year benchmark loan rate was cut from 6.31 % to 6 %. Parallel adjustments were also made to the benchmark interest rates on deposits and loans of other maturities and those on loans from housing provident funds.⁵

Deposits of financial institutions saw larger fluctuations and at the end of September 2012, outstanding deposits in domestic and foreign currencies of all financial institutions (including foreign-funded financial institutions) stood at 92.6 trillion RMB.⁶ Outstanding deposits of non-financial institutions registered 31.4 trillion RMB.⁷

⁴Monetary Policy Analysis Group of the People's Bank of China, 'China Monetary Policy Report, Quarter Three', (November 2, 2012), [http://www.pbc.gov.cn/image_public/UserFiles/english/upload/File/China%20Monetary%20Policy%20Report,%20Quarter%20Three\(2\).pdf](http://www.pbc.gov.cn/image_public/UserFiles/english/upload/File/China%20Monetary%20Policy%20Report,%20Quarter%20Three(2).pdf) (visited 14 December 2012), p. I.

⁵The People's Bank of China, 'Highlights of China's Monetary Policy in the Third Quarter of 2012', http://www.pbc.gov.cn/publish/english/955/2012/20121113141006634513925/20121113141006634513925_.html (visited 14 December 2012).

⁶*Supra* note 5, at 1.

⁷*Id.* at 2.

Also, by end September, outstanding loans in domestic and foreign currencies of all financial institutions registered 65.5 trillion RMB, and outstanding RMB loans stood at 61.5 trillion RMB. This was the highest since September 2011, (up 16.3 percent year on year) accelerating 0.3 percentage points over end-June.⁸

By sector, RMB loans to the household sector picked up, with loans at end-September 1.9 trillion RMB more than that at the beginning of 2012, Newly extended medium and long-term loans in the third quarter accounted for 42.1 percent of newly extended loans of all maturities. Short-term loans including bill financing went up 4.2 trillion RMB from the beginning of 2012, an acceleration of 1.5 trillion RMB year on year⁹ On August 23, to facilitate the financial sector to serve the real economy, and to enable the agro-linked central bank loans to encourage financial institutions to extend more loans to the agricultural sector, the PBC issued the *Notice on Expanding the Pilot Areas of Agro-linked Central Bank Loans* (PBC Document [2012] No. 207).¹⁰ Property loan growth accelerated mainly due to rebound in the growth of personal home loans and property development loans, and at end- September, RMB property loans posted an outstanding balance of 11.74 trillion RMB, rising by 12.2 percent year on year, up 1.9 percentage points from the end of the previous quarter.¹¹ Growth of micro and small enterprise (MSE) loans continued to pick up pace and at end-September, enterprise loans extended posted an outstanding balance of 39.53 trillion RMB, representing a year on year growth of 15.7 percent.¹²[See Table 1].

However, *Bad loans* at Chinese banks rose by 22.4 billion RMB (\$4 billion) in the third quarter to a total 478.8 billion RMB, while the non-performing-loan ratio ticked up slightly from the previous quarter to 0.95 percent.¹³

⁸*Id.*

⁹*Id.* at 3

¹⁰*Supra* note 5.

¹¹The People's Bank of China, 'Statistical Report on Uses of Loans by Financial Institutions, Q3 2012 (November 19, 2012)',

http://www.pbc.gov.cn/publish/english/955/2012/20121119160230088256854/20121119160230088256854_.html (visited 14 December 2012)

¹²*Id.*

¹³Reuters :U.S., 'Bad loans at Chinese banks rise \$4 billion in third quarter: regulator (November 15, 2012)' <http://www.reuters.com/article/2012/11/16/us-china-badloans-idUSBRE8AF02X20121116> (visited December 14, 2012).

Table 1. Financial Data for the first three quarters, 2012

Financial Data	Value	Year-on-Year
M2 money supply (Trillion RMB)	94.4	14.8%
M1 money supply (Trillion RMB)	28.7	7.3%
Customs imports (Trillion USD)	1.3	4.8%
Customs exports (Trillion USD)	1.5	7.4%
Fiscal revenue (Trillion RMB)	9.1	10.9%
New RMB loans (Trillion RMB)	6.7	18.3%
RMB deposits in financial institutions (Trillion RMB)	90	13.3%
Foreign currency deposits in financial institutions (Trillion RMB)	92.6	14.3%
RMB loans in financial institutions (Trillion RMB)	61.5	16.3%
Foreign currency loans in financial institutions (Trillion RMB)	65.5	16.4%
Foreign exchange reserves (Trillion USD)	3.3	2.8%
Cross-border RMB settlements (Trillion RMB)	2.1	N.A.

Source: KPMG, *Investment in China: Numbers and Trends, Third Quarter, 2012*

Money Supply and Open Market Operations

Net cash withdrawals in the first three quarters of 2012 totalled 268.4 billion RMB, 12.7 billion RMB more than that during the same period of the previous year.¹⁴ At end-September, growth of M2 reached a new high since the latter half of 2011, and growth of M1 reached a new high to date in 2012. In particular, growth of M2 and M1 accelerated by 1.3 and 2.8 % points respectively from the end of August and outstanding base money registered 23.6 trillion RMB.¹⁵ On September 25, PBC released a record 290 billion RMB (\$45.74 billion) into the money markets via reverse repurchase agreements (repos) in an effort to ease a cash crunch.¹⁶ For the week ending September 27, the PBC injected a net of RMB365 billion.¹⁷ Reverse repos in

¹⁴*Supra* note 5, at 1.

¹⁵*Id.*

¹⁶China Daily.com, 'PBOC makes record liquidity injection' http://www.chinadaily.com.cn/china/2012-09/25/content_15782658.htm (visited 14 December 2012).

¹⁷Also Sprach Analyst, 'People's Bank of China's weekly net liquidity injection hits record high' <http://www.alsosprachanalyst.com/economy/peoples-bank-of-chinas-weekly-net-liquidity-injection-hits-record-high.html> (visited 14 December 2012).

the third quarter totalled 2.3 trillion RMB on a cumulative basis, while outstanding reverse repos reached 650 billion RMB at end-September.¹⁸

Foreign Exchange Reserves

Foreign reserve increased slightly from US\$3.24 trillion to US\$3.29 trillion. On a year-on-year basis, China's foreign exchange reserves increased by 2.8%. It is worth noting that China's foreign reserve remains at around US\$3.2-3.3 trillion for more than a year now without any significant expansion in size beyond the monthly fluctuation.¹⁹

International Trade

Export and Import

In the first three quarters, China's import & export totalled US\$ 2842.47 billion with export at US\$ 1495.39 billion and import at US\$ 1347.08 billion. In September 2012, China's import & export totalled US\$ 345.03 billion with a year-on-year growth of 6.3%. China's export was US\$ 186.35 billion and its import was US\$ 158.68 billion, up by 9.9% and 2.4% respectively.²⁰



Source: *Trading Economics*, 'China Exports: July 2012- Sep 2012'

<http://www.tradingeconomics.com/china/exports>

¹⁸*Supra* note 4, at 9.

¹⁹Also Sprach Analyst, 'China Monetary Statistics for September 2012 (October 13, 2012)', <http://www.alsosprachanalyst.com/economy/china-monetary-statistics-for-september-2012.html> (visited 14 December 2012).

²⁰Ministry of Commerce, People's Republic of China, 'Brief Statistics on China's Import & Export in September 2012 (October 26, 2012)', <http://english.mofcom.gov.cn/aarticle/statistic/BriefStatistics/201211/20121108452919.html> (visited 14 December 2012).



Source: *Trading Economics*, 'China Imports: July 2012- Sep 2012'

<http://www.tradingeconomics.com/china/imports>

Foreign Direct Investment

In the first three quarters of 2012, foreign direct investment (FDI) flows into China saw a 3.8% decline from the same period one year ago.²¹ According to the recent statistics, in September 2012, newly approved Foreign-invested Enterprises amounted to 2,248, down by 6.37% year on year; the actual use of foreign investment reached US\$8.328 billion, down by 6.81% year on year.²² The service sector was the sector attracting the most FDI, accounting for USD 39.5 billion, 47 percent of the total national amount as of September 30, 2012. The manufacturing sector was the second largest sector, accounting for USD 37 billion, 44.3 percent of the FDI in China.²³ Meanwhile, outbound direct investment for the month decreased by 26.1% year on year, down from 16.9% year on year. On a year-to-date basis, outbound investment for January-September increased by 28.9% compared with the same period a year ago.²⁴

²¹*Supra* note 23, at 1.

²²Ministry of Commerce, People's Republic of China, 'Statistics of FDI in January-September 2012, October 26, 2012' <http://english.mofcom.gov.cn/aarticle/statistic/foreigninvestment/201210/20121008405990.html> (visited 20 December 2012).

²³*Supra* note 23, at 13.

²⁴Also Sprach Analyst, 'China FDI was down 6.8% yoy in September, October 19, 2012' <http://www.alsosprachanalyst.com/economy/china-fdi-sept-2012.html> (visited 20 December 2012).

RMB settlement of cross-border direct investments reached 176.61 billion yuan, including 22.10 billion yuan in outbound direct investments and 154.51 billion RMB in foreign direct investments.²⁵

Trade Agreements and Economic Cooperation

China- Africa: The fifth Ministerial Conference of the Forum on **China-Africa Cooperation** was held in July 2012. President, Hu Jintao, announced new measures for deepening the practical cooperation between China and Africa and charted the direction and areas of the cooperation in the next three years. China committed to implement measures in relation to economic cooperation and trade promotion in three priority areas, i.e. expanding cooperation in investment and financing, increasing development assistance and supporting the African integration process.²⁶

China: Turkmenistan: In August, 2012, the second meeting of the **China-Turkmenistan Cooperation** Committee was held, with two agreements signed to promote pragmatic cooperation between the two countries. The meeting was co-chaired by China's Vice Premier Wang Qishan and Turkmenistan's Deputy Prime Minister Baymyrat Hojамuhammedov. Noting that Turkmenistan is an important and reliable natural gas supplier for China, while China is a stable, long-term export market for Turkmen natural gas, Wang said that China is willing to work with Turkmenistan to promote energy cooperation in a comprehensive way to meet the goal of an accumulative total gas supply of 44 billion cubic meters by the end of the year; Wang also stressed the importance of putting the China-Turkmenistan gas pipeline C into operation as scheduled and further to develop the gas fields to the west of Amu Darya River and South Yolotan and also to implement the agreement of a 25-billion-cubic-meters increase of gas supply from Turkmenistan each year.²⁷

China- Taiwan: On August 9, 2012, **Chinese mainland and Taiwanese negotiators** signed two cross-strait agreements on investment protection and promotion, as well as customs cooperation. In the agreement, the mainland and Taiwan promised to provide equal, if not preferential, treatment for investors from both sides. Each side will treat investors from the

²⁵ *Supra* note 5, at 13.

²⁶ Ministry of Commerce, People's Republic of China, 'Reading of Economic Cooperation and Trade Promotion Measures, August 22, 2012' <http://english.mofcom.gov.cn/aarticle/policyrelease/Cocoon/201208/20120808298590.html> (visited 20 December 2012).

²⁷ Ministry of Commerce, People's Republic of China, 'China-Turkmenistan Cooperation Committee holds 2nd meeting, August 08, 2012' <http://english.mofcom.gov.cn/aarticle/newsrelease/counseloroffice/westernasiaandaficareport/201208/20120808273922.html> (visited 21 December 2012)

other side the same way it treats those from other countries or regions, if not preferentially, the agreement said. However, the agreement only concerns future policies. Both sides promised to gradually remove existing policies that are not in line with the agreement. In addition, the two sides published a statement of common understanding on personal freedom and safety issues related to the agreement. In terms of cross-Strait customs cooperation, the two sides will simplify customs procedures, improve the efficiency of customs clearance and enhance the effective supervision of cargo for cross-Strait trade in order to facilitate the implementation of Economic Cooperation Framework Agreement (ECFA). The agreement also aims to boost the convenience and safety of cross-Strait trade, the application of information technology and the development of paperless customs clearance.²⁸

China and the Democratic People's Republic of Korea (North Korea): A meeting of the China-DPRK Joint Steering Committee of Economic Zones was held in Meeting in Beijing on 16 August, 2012.²⁹ The two sides announced in the meeting the establishment of the Management Committee of Rason Economic and Trade Zone and the Management Committee of the Hwanggumphyong and Wihwa Islands Economic Zone, and signed agreements on the establishment and operation of the Management Committee, economic and technical cooperation, agricultural cooperation, as well as power transmission, logistic park construction and detailed planning in the Rason Economic and Trade Zone.

China and Indonesia: On August 23, 2012, Chinese and Indonesian entrepreneurs signed trade agreements worth at least 17 billion U.S. dollars, during the Indonesian president's visit to China. The agreements, which include nine memoranda of understanding and several intention cooperation pacts, cover 15 projects in the fields of iron and steel making, textile manufacturing, hydroelectric generation, mining and agriculture. Bilateral trade between the two countries is expected to reach 80 billion U.S. dollars by 2015. The bilateral trade volume reached 60.5 billion U.S. dollars in 2011, compared with 2.9 billion U.S. dollars in 2000. China is the world's second-largest economy, and Indonesia is the biggest among the Association of Southeast Asian Nations.³⁰

²⁸Ministry of Commerce, People's Republic of China, 'Chinese mainland, Taiwan sign investment protection, customs cooperation pacts, August 10,2012'
<http://english.mofcom.gov.cn/aarticle/counselorsreport/asiareport/201208/20120808278795.html> (visited 21 December 2012).

²⁹Ministry of Commerce, People's Republic of China, 'Regular Press Conference of the Ministry of Commerce on August 16, 2012', <http://english.mofcom.gov.cn/aarticle/newsrelease/press/201208/20120808302776.html>. (visited 20 December 2012).

³⁰Ministry of Commerce, People's Republic of China, 'Sino-Indonesian entrepreneurs ink 17 bln USD agreements, August 23,2012'

China and Swiss FTA discussions: The 6th round of negotiations on **Sino-Swiss FTA** was held in Davos of Switzerland from September 4th to 6th. China and Switzerland fully exchanged views on the issues of FTA tariff reductions in trade in goods, services, rules of origin, customs cooperation and trade convenience, sanitary and phytosanitary measures, technological barrier to trade, articles on legal issue and institutions, intellectual property rights, policies for competition, trade remedy, dispute settlement as well as economic and technical cooperation, and reached a series of consensus.³¹

China and India:The 9th meeting of India-China Joint Group on Economic Relations, Trade, Science and Technology took place on August 27, 2012.³² The meeting highlighted the following aspects.

1. China promised to import more Indian commodities including IT, pharmaceutical and agricultural products in order to make trade between the two countries "more balanced".
2. The two countries agreed to set up a Joint Working Group (JWG) to look into trade-related issues within 90 days.
3. Both countries had also agreed to work on a five-year plan on economic cooperation.
4. China hoped to increase bilateral trade with India to 100 billion U.S. dollars by 2015 from 75 billion dollars at present.
5. India welcomed Chinese investment in the nine envisaged economic development zones in the country, also known as NMIZs, which will become manufacturing bases.
6. India indicated that India's visa policy was oriented at inviting highly skilled and qualified professional personnel from China in its visa policy as opposed to low skilled labour.

China and Canada: On 9 September 2012, China's Minister of Commerce Chen Deming and Canada's Minister of International Trade Ed Fast signed the Agreement between the Government of the People's Republic of China and the Government of Canada for the *Promotion*

<http://english.mofcom.gov.cn/aarticle/newsrelease/counseloroffice/westernasiaandaficareport/201208/20120808299733.html> (visited 20 December 2012).

³¹China FTA Network, Ministry of Commerce, 'The 6th Round of Negotiations on Sino-Swiss FTA Held in Switzerland, 2012-09-14' http://fta.mofcom.gov.cn/enarticle/enrelease/201209/10888_1.html (visited 20 December 2012)

^{32,32}Ministry of Commerce, People's Republic of China, 'China promises to import more Indian commodities to attain balanced trade', <http://english.mofcom.gov.cn/aarticle/counselorsreport/asiareport/201208/20120808308852.html> (visited 20 December 2012).

and Reciprocal Protection of Investments. This is the most extensive bilateral investment agreement signed by China so far.³³

China and Chile: On September 9, the Supplementary Agreement on Investment of the Free Trade Agreement Between the Government of the People's Republic of China and the Government of the Republic of Chile was signed. The signing of the Agreement marks the completion of China-Chile Free Trade Area.³⁴

China, EU and Belgium: On September 21, 2012, at the 15th China-EU Summit, China and the EU issued a joint press communique and signed several cooperation documents on technology, anti-monopoly laws, and low-carbon and sustainable development. Further Belgium was an important partner of cooperation for China in the EU, and the two countries have witnessed fruitful cooperation in high-tech and financial sectors.³⁵

Malaysia signed an MOU with China's leading railways Manufacturer: On 24 September 2012, **Malaysian government signed an agreement with China's leading railways manufacturer**, China South Locomotive and Rolling Stock Corporation Ltd. (CSR), in a bid to encourage and promote technical cooperation in railway engineering and technology. *The Memorandum of Arrangement between CSR's subsidiary, CSR Zhuzhou Electric Locomotive Co Ltd. (CSR ZELC) and Ministry of Transport of Malaysia* covers areas including railway engineering and technology, industrial resources on railway infrastructure, human resource development in Railway Engineering. CSR has committed to invest up to 400 million ringgit (128 million U.S. dollars) to set up a "ASEAN Rail Center" in Batu Gajah of Malaysia's Perak state, which would cover full scope of work of production, assembly, testing, overhaul and refurbishment.³⁶

³³Ministry of Commerce, People's Republic of China, 'Interpretation of China-Canada Bilateral Investment Protection Agreement by An Official from the Department of Treaty and Law of MOFCOM, September 13, 2012' <http://english.mofcom.gov.cn/aarticle/policyrelease/Cocoon/201209/20120908359187.html> (visited 20 December 2012).

³⁴Ministry of Commerce, People's Republic of China, 'Interpretation of Supplementary Agreement on Investment of China-Chile Free Trade Agreement by An Official from the Department of Treaty and Law of MOFCOM, September 14, 2012' <http://english.mofcom.gov.cn/aarticle/policyrelease/Cocoon/201209/20120908359906.html> (visited 20 December 2012).

³⁵Ministry of Commerce, People's Republic of China, Wen's visit enhances China-EU relations: FM, September 27, 2012' <http://english.mofcom.gov.cn/aarticle/newsrelease/counseloroffice/bilateralexchanges/201209/20120908362979.html> (visited 21 December 2012).

³⁶Ministry of Commerce, People's Republic of China, 'Malaysia seeks further cooperation with China in railways technology, September 25, 2012' <http://english.mofcom.gov.cn/aarticle/counselorsreport/asiareport/201209/20120908356810.html> (visited 21 December 2012).

Customs and other Border Measures

Import Licensing: Elimination of automatic import licensing requirements on 19 types of electrical and machinery products, i.e. boilers, steam turbines, water turbines, and electrical installations.

In June 2012, China included olive oil and distillers' grains (HS 1509.10.00; 1509.90.00; 1510.00.00; 2303.30.00) in the Catalogue of staple agricultural products subject to import report administration.³⁷

Import Prohibition against Somalian Imports: With effect from 1 June 2012, the import of charcoal from Somalia was prohibited in order to perform the international obligations assumed by China and to implement the resolution No.2036 (2012) of UN Security Council.³⁸

Import Quota on Wool:In accordance with Interim Measures for the Administration of Import Tariff Quotas of Agricultural Products (Order No.4 of 2003 of the Ministry of Commerce and National Development and Reform Commission), the Ministry of Commerce formulated detailed rules for implementation of administration of import tariff quotas for Wool and Tops in 2013 by way of an announcement on September 25. The total import tariff quotas for wool was kept at 287,000 tons in 2013, and the total import tariff quotas for tops are 80,000 tons.³⁹ The total import tariff quotas of sugar will be kept at 1.945 million tons in 2013, 70% of which will be state-run trade quotas.⁴⁰

Export Measures

Export quotas on non-ferrous metals: The second batch of the non-ferrous metals export quotas of 2012 was issued on July 19, 2012 and the non-ferrous export quota in the second batch issued in 2012 is kept at 40% of the total quantity of the year. The non-ferrous export quota for the second batch issued in 2012 is calculated on the basis of various enterprises' production capacity, export volume and export value from 2009-2011.⁴¹

³⁷WTO: Trade and Trade related Measures, G-20 report (October, 2012).

³⁸Ministry of Commerce, People's Republic of China, 'Charcoal from Somalia, July 27,2012' <http://english.mofcom.gov.cn/aarticle/policyrelease/buwei/201210/20121008371586.html> (visited 22 December 2012).

³⁹Ministry of Commerce, People's Republic of China, 'Wool and Tops in 2013, September 23, 2012', <http://english.mofcom.gov.cn/aarticle/policyrelease/buwei/201209/20120908366266.html> (visited 22 December 2012).

⁴⁰Ministry of Commerce, People's Republic of China, 'MOFCOM Announcement No. 59 of 2012 on Detailed Rules for Applying and Distributing Import Tariff Quota of Sugar in 2013, September 28,2012', <http://english.mofcom.gov.cn/aarticle/policyrelease/buwei/201209/20120908366253.html> (visited 22 December 2012).

⁴¹Ministry of Commerce, People's Republic of China, 'MOFCOM Circular on Issues Concerning the Second Batch of Tungsten, Antimony, Silver, Tin, Indium and Molybdenum Export Quotas of 2012, July 21,2012'

Export quota on Coke: On 19 July 2012, the second batch of the coke export quota of 2012 was issued by the MOFCOM. The quota schedule is mainly based on the real export of all enterprises in 2009-2011. In order to embody the preferential policy to the manufacturing enterprises, the export supply of the manufacturing enterprises in 2010 is taken into consideration for determination of the second quota schedule.⁴²

Export quota on Rare Earths: The criteria for second batch of rare earth export quotas distribution was notified by the MOFCOM on 16 August 2012. The quota will be calculated on the basis of the actual export performance of the relevant enterprises from 2009 to 2011.⁴³

Technical Barriers to Trade

Vide G/TBT/N/CHN/920, China notified National Standard of the P.R.C., Seed Potatoes. Article 5.2 of this standard is mandatory, the rest are recommended. The mandatory contents are the quality requirements for all levels of seed potatoes.

Vide G/TBT/N/CHN/921, China notified National Standard of the P.R.C., Cotton Part 1: Saw Ginned Upland Cotton. This Standard specifies the quality requirements, classification criteria, test methods, inspection rules, inspection certificates, packages and marks; storage and transportation requirements etc. for saw ginned upland cotton.

Vide G/TBT/N/CHN/923, China notified standards for Electrical accessories- portable residual current devices without integral overcurrent protection for household and similar uses (PRCD) (ICS: 29.120.50). Chapters 8 and 9 of this standard are mandatory, the rest are recommended. The mandatory contents are the requirements of structure, operation and test for portable residual current devices without integral overcurrent protection for household and similar uses (PRCD).

Vide G/TBT/N/CHN/924, China notified Polyurethane synthetic leather used for vehicle (ICS: 59.080.40, 59.140.99; HS: 5903202090). Chapter 3 of this standard is mandatory, the rest are recommended. The mandatory contents are the safety technical requirements for polyurethane synthetic leather used for vehicle.

Vide G/TBT/N/CHN/926, China notified a new national standard for small and medium size rotating electrical machines (ICS: 29.160.01). This standard specifies the general safety requirements for general purpose small and medium size rotating electric machines.

<http://english.mofcom.gov.cn/aarticle/policyrelease/buwei/201209/20120908366268.html> (visited 22 December 2012).

⁴²Ministry of Commerce, People's Republic of China, 'MOFCOM Circular on Issues Concerning the Second Batch of Coke Export Quotas of 2012, July 21, 2012'

<http://english.mofcom.gov.cn/aarticle/policyrelease/buwei/201209/20120908365996.html> (visited 22 December 2012).

⁴³Ministry of Commerce, People's Republic of China, 'MOFCOM Circular on Distributing the Second Batch of Rare Earth Export Quotas in 2012, August 23, 2012'

<http://english.mofcom.gov.cn/aarticle/policyrelease/buwei/201209/20120908366759.html> (visited 22 December 2012).

Sanitary and Phytosanitary Measures

Among the various notifications made by China during this period, the following one is of special concerns to all WTO members including India.

On 13 September 2012, Ministry of Health issued National Food Safety Standard of the People's Republic China, the Labelling of Pre-packaged Foods for Special Dietary.

This standard applies to the labelling of pre-packaged foods for special dietary uses. This document has been notified to the Committee on Sanitary and Phytosanitary Measures in G/SPS/N/CHN/542. This standard adds some specific rules about formulas for special medical purposes and formulas for special medical purposes intended for infants.

This standard is a deviation from the applicable international standard, namely Codex Stan 146-1985.

Other Investment Measures

On July 27, the China Securities Regulatory Commission (CSRC) published the "Relevant Issues on the Implementation of 'Measures for the Administration of Securities Investment within the Territory of China by Qualified Foreign Institutional Investors (QFII)' (the 'Measures')". The guiding principles are based on "relaxing controls while enhancing supervision"; lowering QFII qualification requirements to encourage the inflow of overseas long-term investments; satisfying requirements by QFII in the selection of multiple securities traders, adding to operational convenience; allowing QFII to invest in the interbank bond market and SME private equity (PE) financing; and finally raising the shareholding percentage limit of foreign investors from 20 percent to 30 percent.

12th Five Year Plan for the Development of National Strategic Emerging Industries: On August 6, the State Council officially published the "12th Five Year Plan for the Development of National Strategic Emerging Industries" (the "Plan"). The "Plan" specifies focused development directions in seven areas including: the energy conservation and environment protection industry, biological industry, high-end equipment manufacturing, new energy industry, new material industry, and new energy auto industry. It further specifies a development roadmap, setting landmark targets for various sectors, as well as action plans, such as raising overall innovation ability and exploration for market applications. The "Plan" also introduces policy measures to further facilitate the development of emerging industries through enhancing financial and taxation policy support, completing human resource policies, and fostering a sound market environment.

On August 6, the NDRC published the ‘12th Five Year Plan for Rural Economic Development’ setting targets for the 12th Five Year period: to ensure cultivated land stock of around 45 million acres, cultivate new land with effective irrigation acreage of around 988,386 acres, and integrate a grain production capacity of over 540 million tons, ensuring grain security for the whole country.

As part of a broader package of deregulation for the securities industry, in August 2012, the China Securities Regulatory Commission (CSRC) proposed raising the maximum foreign equity limitation in securities firms from 33% to 49%, and permitting firms jointly owned by domestic and foreign investors to expand their scope of operation after only two years of continuous operation, instead of five years as is currently the case.¹⁶ In addition, securities firms are now authorized to issue, sell and trade over-the-counter (OTC) products, such as SME bonds.

Contingency Trade Protection

Anti-Dumping Investigations and Measures: By China

China initiated seven new antidumping investigations during the period May- September 2012. Trends indicate that antidumping actions are again rising in China.

Petition for anti-dumping investigation on behalf of domestic industry of solar-grade polysilicon.

The Ministry of Commerce received, on July 2, 2012, a petition for anti-dumping investigation submitted by Jiangsu Zhongneng Silicon Technology Development Co., Ltd., Jiangxi Saiwei LDK Photovoltaic Silicon Technology Co., Ltd., China Silicon Corporation Ltd. and Daqo New Energy Co., Ltd. (hereinafter referred to as the “petitioner”) on behalf of domestic industry of solar-grade polysilicon. The petitioner requested an anti-dumping investigation against imports of solar-grade polysilicon from the United States and South Korea. The evidence provided initially by the petitioner suggests that, the aggregate solar-grade polysilicon output of the petitioner has a share of over 50% of the total output of similar products in Chinese mainland in 2009, 2010, 2011 and January to April of 2012. Based on a prima facie evidence, the Ministry of Commerce decided, on July 20, 2012 to initiate an anti-dumping investigation against imports of solar-grade polysilicon from the United States and South Korea.⁴⁴

The Ministry of Commerce decided to take provisional anti-dumping measures on imports of ethylene glycol monobutyl ether and diethylene glycol monobutyl ether.

⁴⁴Ministry of Commerce, People’s Republic of China, ‘MOFCOM Announcement No. 40 of 2012 on Filing for Anti-dumping Investigation against Imports of Solar Grade Polysilicon from the United States and South Korea’, <http://english.mofcom.gov.cn/aarticle/policyrelease/buwei/201209/20120908366291.html> (visited 26 December 2012).

The MOFCOM released on July 27, Announcement No.42 of 2012, deciding to take provisional anti-dumping measures on imports of ethylene glycol monobutyl ether and diethylene glycol monobutyl ether originating in the U.S. and the E.U. Starting from July 28, 2012, importers of ethylene glycol monobutyl ether and diethylene glycol monobutyl ether from the two sources are required to pay deposit at Chinese Customs, depending on the dumping margin of each producer decided in the initial ruling. MOFCOM had initiated antidumping investigation on ethylene glycol monobutyl ether and diethylene glycol monobutyl ether originating in the U.S. and the E.U. on November 18, 2011.⁴⁵

Ministry Of Commerce review of the anti-dumping investigation concerning electrolytic capacitor paper imported from Japan.

In August, 2012, The Ministry of Commerce (MOFCOM) initiated a review of the anti-dumping investigation concerning electrolytic capacitor paper imported from Japan. The review investigation was to determine whether there is a need to extend the existing anti-dumping duties on electrolytic capacitor paper imported from Japan beyond the original term. The review decision came following China's electrolytic capacitor industry's request to continue to implement the five-year anti-dumping duties that expire, the MOFCOM said in a statement on its website.⁴⁶

MOFCOM decision to start final review investigation into anti-dumping measures imposed on Bisphenol-A imports from Japan

MOFCOM released an Announcement on August 29 on its decision to start final review investigation into anti-dumping measures imposed on Bisphenol-A imports from Japan, Singapore, ROK and Taiwan from August 30, 2012. According to the Regulations of the People's Republic of China on Anti-dumping, anti-dumping duty will continue to be collected on imported Bisphenol-A originated from the said countries and regions during the final review investigation period in accordance with tax collection scope and tax rate released in MOFCOM Announcement No. 68 and No. 96 of 2007 and No. 108 of 2009. The investigated product in

⁴⁵Ministry of Commerce, People's Republic of China, 'MOFCOM Decided to Take Provisional Anti-dumping Measures on Imports of Ethylene Glycol Monobutyl Ether and Diethylene Glycol Monobutyl Ether Originating in US and EU', <http://english.mofcom.gov.cn/aarticle/newsrelease/significantnews/201207/20120708258341.html> (visited 26 December 2012).

⁴⁶Ministry of Commerce, People's Republic of China, 'China begins anti-dumping probe against Japanese paper', <http://english.mofcom.gov.cn/aarticle/newsrelease/counseloroffice/westernasiaandafricareport/201208/20120808311840.html> (visited 24 December 2012).

the final review is the same as that in the anti-dumping investigation. The review is set to be completed before August 30, 2013⁴⁷

The Chinese Ministry Of Commerce Said It Will Extend Anti-Dumping Investigations To High-Performance Stainless Steel Seamless Tubes From The European Union (EU) And Japan

On Aug. 31, 2012, The Chinese Ministry of Commerce said it will extend anti-dumping investigations to high-performance stainless steel seamless tubes from the European Union (EU) and Japan for another six months. In a statement on its website, the ministry said the extension was made due to the "specialty and complexity" of the case, adding that the probe will last until March 8 next year. The ongoing investigations were announced by the Ministry on 8 September 2011. Earlier in May 2012, the ministry said in a preliminary ruling that the EU and Japan have been dumping high-performance stainless steel seamless tubes into the Chinese market and have "substantially harmed" Chinese producers. Anti-dumping deposits paid to Chinese customs by the importers of those products are charged in accordance with dumping margins for different producers, with rates ranging from 9.7 percent to 39.2 percent of the customs value of the imported goods.⁴⁸

China's Anti-Dumping Investigation Against Imported Pyridine Originated In India And Japan.

The Ministry of Commerce received on August 2, 2012, the application for anti-dumping investigation formally submitted by Anhui Guoxing Biochemical Co., Ltd., Nanjing Redsun Biochemical Co. Ltd., WeifangLuba Chemical Co., Ltd. and Nantong Reilly Chemical Corporation (hereinafter referred to as "the Applicants") on behalf of domestic pyridine industry, in which the Applicants request an anti-dumping investigation to be carried out against imports of pyridine originating in India and Japan. In accordance with the Regulations of the People's Republic of China on Anti-dumping, the Ministry of Commerce has reviewed the qualifications of the Applicants, related conditions of imported products for which the application for investigation is submitted. Meanwhile, the Ministry of Commerce has reviewed evidence with respect to dumping, injury, and the causal relationship between dumping and injury etc. as provided in the application form. On September 21, MOFCOM released

⁴⁷Ministry of Commerce, People's Republic of China, 'MOFCOM Released Announcement on Final Review of Anti-dumping Measures against Bisphenol-A Imports', <http://english.mofcom.gov.cn/aarticle/newsrelease/significantnews/201208/20120808312959.html> (visited 24 December 2012).

⁴⁸Ministry of Commerce, People's Republic of China, 'China extends anti-dumping probe to steel tubes from EU, Japan' <http://english.mofcom.gov.cn/aarticle/counselorsreport/asiareport/201208/20120808315414.html> (visited 24 December 2012).

Announcement No. 55 of 2012, deciding to initiate an anti-dumping investigation against imported pyridine originated in India and Japan.⁴⁹

China's Ministry of Commerce announced that it will terminate anti-dumping duties levied on dichloromethane

In August, 2012, the MOFCOM announced that it would terminate the anti-dumping duty levied on dichloromethane imported from Britain, the United States, the Netherlands, Germany and the Republic of Korea. The ministry made the decision after domestic industries failed to submit review applications with evidence sufficiently showing that the imports could inflict damage upon them, according to a statement on the ministry's website. The ministry also decided not to pursue a review investigation on its part, the statement said.⁵⁰

Anti-Dumping Investigations and Measures: Against China

ECJ's landmark decision on 'Market Economy Treatment' concerning China.

In July 2012, The ECJ rendered a landmark judgment that makes it more difficult for the EU to reject Chinese state-owned enterprises' (SOEs) "market economy treatment" (MET) claims. Excluding State-owned or State-controlled companies from MET solely because of the existence of State shareholding "would not be consistent with economic reality," according to ECJ. The case originated from tariffs imposed by the EU in 1998 on imports of the herbicide glyphosate from China. One producer, Zhejiang Xinan Chemical (Zhejiang Xinanchem), which sought MET from the EU, but was refused because of the "Chinese government's minority stake in the company." "The Chinese State's control over the general meeting of Xinanchem's shareholders does not automatically exclude that company from the benefit of market economy treatment," said the ECJ's ruling. When a firm is believed to be subject to 'state interference', it tended to face the threat of much higher tariffs in the EU when the European Commission probes if goods are being 'dumped'. The granting of MET to certain producers subject to an anti-dumping investigation is a commercially-significant status. Producers granted MET are not subjected to the discriminatory non-market economy regime. In dismissing the appeal, the ECJ noted that "the General Court was fully entitled to hold that State control cannot be equated, as a matter of principle, to 'significant State interference'." "The Court of Justice declares that the 'basic anti-dumping' regulation does not preclude all types of state interference in producer

⁴⁹Ministry of Commerce, People's Republic of China, 'MOFCOM Filed for Anti-dumping Investigation against Imports of Pyridine Originated in Japan and India' <http://english.mofcom.gov.cn/aarticle/newsrelease/significantnews/201209/20120908359902.html> (visited 24 December 2012).

⁵⁰Ministry of Commerce, People's Republic of China, 'China ends anti-dumping duty on imported dichloromethane', <http://english.mofcom.gov.cn/aarticle/newsrelease/counseloroffice/westernasiaandafriicareport/201208/20120808287084.html> (visited 26 December 2012).

undertakings, but only significant interference in decisions regarding prices, costs and inputs,” the ECJ added in its statement.⁵¹

US Commerce Department imposed antidumping duties on Chinese wind turbines

In July, 2012, the US Commerce Department imposed tariffs on Chinese wind turbines. China claimed that Chinese wind turbine exporters did not dump or sell the product below market cost in the US, nor did they receive non-actionable subsidies, which are subsidies in violation of World Trade Organization rules, the statement said. In a preliminary ruling, the US Department of Commerce imposed provisional anti-dumping duties ranging from 20.85 percent to 72.69 percent on utility-scale wind turbines from China. The tariffs are in addition to countervailing duties of between 13.74 percent and 26 percent. Some wind turbines from China thus face tariffs as high as nearly 100 percent. As the US does not recognize China as a market economy, Ukraine was set as the alternative country for calculating the normal value of China's wind turbines exports.⁵²

The Ministry of Commerce (MOC) announced that it will levy anti-dumping duties on photographic paper imported from the EU, the United States and Japan.

In August, 2012, The Ministry of Commerce (MOFCOM) announced that it will levy anti-dumping duties on photographic paper imported from the EU, the United States and Japan, saying the imports have caused "material injury" to the industry in China. The anti-dumping measures will last for five years. The duty rates range from 16.2 percent to 28.8 percent, depending on the dumping margin, or the difference between the average value of the product in its country of origin and its export price. The ruling is final. China launched an anti-dumping probe into photographic paper imported from the EU, the United States and Japan on Dec. 23, 2010, in response to an application filed by domestic photographic paper producers.⁵³

⁵¹China.org.cn, ‘Chinese firm wins landmark case in EU court, July 20, 2012’, http://www.china.org.cn/business/2012-07/20/content_25964217.htm (visited 26 December 2012); Ministry of Commerce, People’s Republic of China, ‘MOFCOM Responded to ECJ’s Final Judgment in EU’s Glyphosate Anti-dumping Case against Chinese Chemical Company’, <http://english.mofcom.gov.cn/aarticle/newsrelease/significantnews/201207/20120708252019.html> (visited 26 December 2012).

⁵²Ministry of Commerce, People’s Republic of China, ‘China opposes US tariffs on wind turbines’ <http://english.mofcom.gov.cn/aarticle/newsrelease/counseloroffice/westernasiaandafricareport/201207/20120708261129.html> (visited 26 December 2012).

⁵³Ministry of Commerce, People’s Republic of China, ‘China to impose anti-dumping duties on imported photographic paper from EU, U.S. and Japan’, <http://english.mofcom.gov.cn/aarticle/newsrelease/counseloroffice/westernasiaandafricareport/201208/20120808299718.html> (visited 26 December 2012).

The US International Trade Commission to maintain existing anti-dumping duties on lined paper school supplies from China.

In a MOFCOM Press release of August 5, 2012, it was reported that the US International Trade Commission announced that it will maintain existing anti-dumping duties on lined paper school supplies from China. This is the first administrative review since September 2006, when the duty was first introduced.⁵⁴

EU Launched Anti-Dumping Investigation on Chinese Solar Panel Imports

The European Commission started in September, 2012, an anti-dumping investigation into imports of solar panels and key components from China. According to a statement issued by the Commission, the charge was initiated by EU ProSun, an industry association, on July 25, 2012. ProSun claimed solar panels and their key components imported from China enter the European market at prices below market value. EU said the case was the most significant anti-dumping complaint the European Commission has received so far in term of import value. China exported about 21 billion Euros worth of solar panels and their key components to the EU in 2011, according to EU statistics. The investigation will take 15 months, during which a provisional anti-dumping duties of within 9 months might be imposed according to EU rules, provided there is sufficient prima facie evidence of dumping.⁵⁵ Concerning the EU's launch of an anti-dumping investigation into exports of Chinese solar panels, the case triggered strong reactions in China and also raised concerns among EU businesses. It was hoped that the case could be properly solved through dialogue and consultation. France is the last stop for the Chinese government delegation headed by Chong Quan, who visited Europe for negotiations concerning EU's anti-dumping investigation against China's PV products. He had previously visited Berlin and Brussels, holding talks with German economy ministry officials and European Commission's Director General for Trade, and positive consensus had been achieved in these consultations.⁵⁶ China's photovoltaic industry has seen challenges rise this year, as the U.S. and

⁵⁴Ministry of Commerce, People's Republic of China, 'US to keep anti-dumping duties on China's paper', <http://english.mofcom.gov.cn/aarticle/newsrelease/counseloroffice/westernasiaandaficareport/201208/20120808287085.html>. (visited 26 December 2012).

⁵⁵People's Daily Online, 'EU launches anti-dumping investigation on Chinese solar panel imports, September 7, 2012', <http://english.peopledaily.com.cn/90778/7940017.html> (visited 23 December 2012).

⁵⁶Ministry of Commerce, People's Republic of China, 'Chong Quan Exchanged Views with French Counterpart on China-EU Trade in PV', <http://english.mofcom.gov.cn/aarticle/counselorsreport/europereport/201209/20120908352704.html> (visited 24 December 2012).

EU, China's two main export markets, launched anti-dumping probes into the country's solar exports earlier in the year.⁵⁷

India set to launch an investigation against China

The Anti-dumping Bureau of the Ministry of Commerce and Industry of India received a petition for anti-dumping investigation on solar cells from China and other countries and regions. MOFCOM is highly concerned about it. If India insists on anti-dumping investigation against China's solar cells, the existing sound cooperation between China and India in new energy will be undermined, so will the interests of India's industry. The solar cell industry of the two nations nonetheless counts on the dialogues and cooperation to solve the trade friction through negotiations.⁵⁸

WTO Dispute Settlement Update

(i) United States — Anti-Dumping Measures on Shrimp and Diamond Sawblades from China: [DS422⁵⁹]

China had requested consultations with the United States regarding the latter's anti-dumping measures on certain frozen warm water shrimp from China. China alleged that the US Department of Commerce's ("USDOC") use of zeroing in the original investigation and several administrative reviews to calculate dumping margins for the subject imports is inconsistent with the United States.

The Panel upheld China's claim concerning the USDOC's use of zeroing in the calculation of dumping margins for individually-examined exporters/producers. The Panel found that the "zeroing" methodology used by the USDOC in calculating the margins of dumping in the three anti-dumping investigations at issue was inconsistent with Article 2.4.2 of the Anti-Dumping Agreement, and therefore concluded that the United States had acted inconsistently with its obligations under this provision. The Panel rejected China's claim concerning the separate rate,

⁵⁷Ministry of Commerce, People's Republic of China, 'China eyes domestic market to boost solar industry', <http://english.mofcom.gov.cn/aarticle/counselorsreport/asiareport/201209/20120908361099.html> (visited 24 December 2012)

⁵⁸Ministry of Commerce, People's Republic of China, 'Regular Press Conference of the Ministry of Commerce on September 19, 2012', <http://english.mofcom.gov.cn/aarticle/newsrelease/press/201210/20121008373738.html> (visited 24 December 2012).

⁵⁹WTO Dispute Settlement, 'United States — Anti-Dumping Measures on Shrimp and Diamond Sawblades from China', http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds422_e.htm (visited 26 December 2012).

but noted that the calculation of the separate rate on the basis of individual margins calculated with zeroing necessarily incorporated the WTO-inconsistent zeroing methodology.

Report(s) adopted, with recommendation to bring measure(s) into conformity on 23 July 2012.

(ii) *DS413⁶⁰ - China — Certain Measures Affecting Electronic Payment Services*

Report(s) adopted, with recommendation to bring measure(s) into conformity on 31 August 2012.

In July 2012, a WTO panel has released a finding on a complaint filed by the US against China on ‘certain restrictions and requirements maintained by China pertaining to electric payment services (EPS) for payment card transactions and the suppliers of those services.’ US alleged that China has permitted only Chinese entity which is the China UnionPay (CUP) to supply electronic payment services for payment card transactions denominated and paid in Renminbi in China, while service suppliers of such transactions can only supply these services for payment card transactions paid in foreign currency. China requires all payment card processing devices to be compatible with the entity’s system and that the payment cards must bear the company’s logo. Also the Chinese entity has guaranteed access to all the merchants in China to accept payment cards while service suppliers of other members must negotiate for access to merchants. The US alleged that China has acted inconsistently with its obligations under GATS.

The panel first examined whether the services at issue — EPS for payment card transactions — are covered under subsector 7.B(d) of China's GATS Schedule and decided in the affirmative. The panel found that China's Schedule includes a market access commitment that allows foreign EPS suppliers to supply their services through commercial presence in China, so long as a supplier meets certain qualifications requirements related to local (RMB) currency business. In addition, the panel concluded that China's Schedule contains a full national treatment commitment for the cross-border (Mode 1) supply of EPS, as well as a national treatment commitment under mode 3 that is also subject to certain qualifications requirements related to local (RMB) currency business.

⁶⁰ WTO Dispute Settlement, ‘China — Certain Measures Affecting Electronic Payment Services’, http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds413_e.htm (visited 27 December 2012).

On one of the grounds, the panel rejected the United States' claim on the basis of insufficient evidence that China maintains CUP as an across-the-board monopoly supplier for the processing of all domestic RMB payment card transactions. Accordingly, the panel rejected the United States' market access and national treatment claims in their entirety in respect of this alleged across-the-board requirement.

However, the panel concluded that China maintains CUP as a monopoly supplier for the clearing of certain types of RMB-denominated payment card transactions. The specific transactions in respect of which the panel determined that CUP is a sole supplier involve RMB payment cards issued in China and used in Hong Kong, China or Macao, China, or RMB payment cards issued in Hong Kong, China or Macao, China and used in China. Article XVI:2(a) requires Members not to limit the number of service suppliers where market access commitments have been undertaken. The panel found that China acted inconsistently with its mode 3 market access commitment under Article XVI:2(a) of the GATS by granting CUP a monopoly for the clearing of these types of RMB payment card transactions. The panel however found no inconsistency with China's national treatment commitments.

Regarding the other Chinese requirements at issue, the panel found that China maintains a requirement that all payment cards issued in China must bear the “Yin Lian”/“UnionPay” logo and be interoperable with that network, a requirement that all terminal equipment in China must be capable of accepting “Yin Lian”/“UnionPay” logo cards, and finally, a requirement that acquiring institutions post the “Yin Lian”/“UnionPay” logo and be capable of accepting all payment cards bearing the “Yin Lian”/“UnionPay” logo. The panel found each of these requirements to be inconsistent with China's mode 1 and mode 3 national treatment obligations under Article XVII of the GATS. It found, through these requirements, that China modifies the conditions of competition in favour of CUP and therefore fails to provide national treatment to EPS suppliers of other Members, which violated China's commitments.

Other Dispute Settlement News

China-Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum[DS431⁶¹]

⁶¹WTO Dispute Settlement, ‘China — Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum’, http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds431_e.htm (visited 26 December 2012).

The United States requested consultations with China with respect to China's restrictions on the export of various forms of rare earths, tungsten and molybdenum. The request refers to materials falling under but not limited to 212 eight-digit Chinese Customs Commodity Codes and over 30 measures. The request also refers to a number of Chinese published as well as unpublished measures that, operating separately or collectively, allegedly impose and administer export restrictions. These restrictions include export duties, export quotas, minimum export price requirements, export licensing requirements and additional requirements and procedures in connection with the administration of the quantitative restrictions.

At its meeting, the DSB established a single panel pursuant to Article 9.1 of the DSU to examine this dispute, DS432 and DS433. Panel was composed on 24 September 2012.

China — Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum [DS432⁶²]

The European Union requested consultations with China with respect to China's restrictions on the export of various forms of rare earths, tungsten and molybdenum. The request refers to materials falling under but not limited to 212 eight-digit Chinese Customs Commodity Codes and over 30 measures. The request also refers to a number of Chinese published as well as unpublished measures that, operating separately or collectively, allegedly impose and administer export restrictions. These restrictions include export duties, export quotas, minimum export price requirements, export licensing requirements and additional requirements and procedures in connection with the administration of the quantitative restrictions.

Panel was composed on 24 September 2012.

DISPUTE DS433⁶³ - China — Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum

Japan requested consultations with China with respect to China's restrictions on the export of various forms of rare earths, tungsten and molybdenum. The request refers to materials falling under but not limited to 212 eight-digit Chinese Customs Commodity Codes and over 30 measures. The request also refers to a number of Chinese published as well as unpublished

⁶²WTO Dispute Settlement, 'China — Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum', http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds432_e.htm (visited 27 December 2012).

⁶³WTO Dispute Settlement, 'China — Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum', http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds433_e.htm (visited 27 December 2012).

measures that, operating separately or collectively, allegedly impose and administer export restrictions. These restrictions include export duties, export quotas, minimum export price requirements, export licensing requirements and additional requirements and procedures in connection with the administration of the quantitative restrictions.

Panel was composed on 24 September 2012.

United States — Countervailing Duty Measures on Certain Products from China [DS437⁶⁴]

China requested consultations with the United States concerning the imposition of countervailing duty measures by the United States on certain products from China.

China challenges various aspects of certain identified countervailing duty investigations, including their opening, conduct and the preliminary and final determinations that led to the imposition of countervailing duties. China also challenges the “rebuttable presumption” allegedly established and applied by the US Department of Commerce that majority government ownership is sufficient to treat an enterprise as a “public body”.

Panel established, but not yet composed on 28 September 2012.

Panel request

China- Subsidies to Automobile Industry

On 17 September 2012, the United States notified the WTO Secretariat of a request for consultations with China on “China’s measures providing subsidies such as grants, loans, forgone government revenue, the provision of goods and services and other incentives contingent upon export performance to automobile and automobile-parts enterprises in China.

⁶⁴WTO Dispute Settlement, ‘United States — Countervailing Duty Measures on Certain Products from China’, http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds437_e.htm (visited 27 December 2012).