



## TRADE POLICY DEVELOPMENTS PAPER NO. 17

### REPORT ON CHINA

(for the period January – March 2012)

**Authors:** James J. Nedumpara, Shreyans Gupta & Vandana Gyanchandani  
*Centre for International Trade and Economic Laws (CITEL)*  
*Jindal Global Law School, Sonapat, NCR of Delhi*

*This report has been prepared by the Centre for International Trade and Economic Laws (CITEL), Jindal Global Law School, Sonapat, NCR of Delhi under a project of the Centre for WTO Studies, Indian Institute of Foreign Trade (IIFT), New Delhi.*

## **TABLE OF CONTENTS**

ABBREVIATIONS AND MEASUREMENT-----	p.3
EXECUTIVE SUMMARY FOR FIRST QUARTER-----	p.5
I. ECONOMIC ENVIRONMENT-----	p.7
II. MONETARY POLICY-----	p.8
III. FDI-----	p.11
III.1 INVESTMENT IN CHINA-----	p.12
III.2 INVESTMENT PROMOTION MEASURES-----	p.12
IV. CHINA'S FLOW OF TRADE-----	p.12
IV.1 IMPORTS AND EXPORTS-----	p.12
V. MEASURES AFFECTING IMPORTS-----	p.13
VI. MEASURES AFFECTING EXPORTS-----	p.17
VII. TRADE AGREEMENTS AND ARRANGEMENTS-----	p.18
VII. CONTINGENT TRADE PROTECTION-----	p.19
VIII.1 ANTI-DUMPING-----	p.19
IX. TECHNICAL REGULATIONS AND STANDARDS-----	p.20
X. SANITARY AND PHYTOSANITARY MEASURES-----	p.24
XI. WTO SETTLEMENT AND COMPLIANCE-----	p.24
XII. INTELLECTUAL PROPERTY RIGHTS-----	p.27
XIII. TRADE POLICY BY SECTOR: AGRICULTURE-----	p.31
XIV. TRADE POLICY BY SECTOR: MANUFACTURING-----	p.33
XV. TRADE POLICY BY SECTOR: SERVICES-----	p.34
XVI. TRADE POLICY SECTOR: TOURISM-----	p.34

## **ABBREVIATIONS**

APEC	-	Asia-Pacific Economic Cooperation
APEDA	-	Agricultural Products Export Development Authority
AQSIQ	-	The General Administration of Quality Supervision, Inspection and Quarantine
ARFs	-	Automatic Registration Forms
Art.	-	Article
ASEAN	-	Association of South-East Asian Nations
BL	-	Bidding Laws
BOFT	-	Bureau for Fair Trade for Imports and Exports
CAAC	-	General Administration of Civil Aviation
CBRC	-	China Banking Regulatory Commission
CCC	-	China Compulsory Certification
CEPA	-	Comprehensive Economic Partnership Agreement
CERC	-	China Electricity Regulatory Commission
CIRC	-	China Insurance Regulatory Commission
CNCA	-	Certification and Accreditation Administration
CPC	-	Communist Party of China
CQC	-	The China Quality Certification Centre
CAB	-	Conformity Assessment Body
CSRC	-	China Securities Regulatory Commission
DFEC	-	Department of Foreign Economic Cooperation
DITEA	-	Department of International Trade and Economic Affairs
DSB	-	Dispute Settlement Body (WTO)
EEA	-	European Economic Area
EFTA	-	European Free Trade Association
EPA	-	Economic Partnership Agreement
EU	-	European Union
FDI	-	Foreign Direct Investment
FTAs	-	Free Trade Agreements
GAC	-	General Administration of Customs
GAT	-	General Administration of Taxation
GB	-	Guobiao (Chinese for National Standard)
GDP	-	Gross Domestic Product
GIs	-	Geographical Indications
GPA	-	Agreement on Government Procurement GPA
HS	-	Harmonised System
IBII	-	Investigation Bureau for Industry Injury
ICT	-	Information and Communication Technology
IECE	-	The IEC System for Conformity Testing and Certification of Electrical Equipment
IP	-	Intellectual Property
IPR	-	Intellectual Property Rights
ISO	-	International Organization for Standardization
IT	-	Information Technology
ITES	-	Information Technology Enabled Services
MLPS	-	The Multi-Level Protection Scheme
MOA	-	Ministry of Agriculture
MOF	-	Ministry of Finance
MOF	-	Ministry of Finance
MOFCOM	-	Ministry of Commerce
MPS	-	The Ministry of Public Security
MRA	-	Mutual Recognition Agreement
MRRFTO	-	Measures for Registration for the Record of Foreign Trade Operators

NAFTA	-	North American Free Trade Agreement
NBER	-	National Bureau of Economic Research
NCAC	-	National Copyright Administration of China
NDRC	-	National Development and Reform Commission
NME	-	Non-Market Economy
NPC	-	National People's Congress
NPK	-	Sodium, Phosphorous, Pottasium
NT	-	National Treatment
OECD	-	Organization for Economic Cooperation and Development
PBC	-	The People's Bank of China
PPP	-	Purchasing-power parity
PRC	-	People's Republic of China
PRD	-	Office of the Economic and Commercial Counselor, Policy Research Department
PSI	-	Pre-shipment inspection
QIP	-	Quarantine Inspection Permit
RAIEG	-	Regulation on the Administration of the Import and Export of Good
RMB	-	Renminbi
ROO	-	Rules of Origin
SAARC	-	South Asian Association for Regional Cooperation
SAC	-	The Standardization Administration of China
SAFE	-	State Administration of Foreign Exchange
SAFE	-	State Administration of Foreign Exchange
SAIC	-	The State Administration of Industry and Commerce
SASAC	-	State-Owned Asset Supervision Administration Commission
SAT	-	Chinese State Administration of Taxation
SCNPC	-	Standing Committee of the National People's Congress
SEZs	-	Special economic zones
SIPO	-	State Intellectual Property Office
SOEs	-	State-owned enterprises
SPC	-	Supreme People's Court
STE	-	State-trading enterprises
TBT	-	Technical Barriers to Trade
TCF	-	Textiles, clothing and footwear
TRIMs	-	Trade-Related Investment Measures
TRIPs	-	Trade-Related Aspects of Intellectual Property Rights
TRQs	-	Tariff-rate quotas
USTR	-	United States Trade Representative
VAT	-	Value-added Tax
WAP	-	The WLAN Authentication and Privacy Infrastructure
WIPO	-	World Intellectual Property Organization
WLANs	-	Wireless Local Area Networks
WTO	-	World Trade Organization

## MEASUREMENT

- 100 mu (Modern Chinese units)= 6.6667 hectares

## EXECUTIVE SUMMARY

- » In the first quarterly meeting of PBC there was an agreement to follow latest domestic, international economic and financial developments for a prudent monetary policy. The role of direct financing will be tapped to meet the diverse demand for investment and funding to promote sound development of the financial markets. Further endeavor will be made to improve the RMB exchange rate regime, increase the two-way flexibility of RMB exchange rate fluctuations and keep the RMB exchange rate basically stable at an adaptive and equilibrium level.<sup>1</sup>
- » China received US \$ 29.5 billion FDI in the first quarter down by 2.8 percent from the same period in 2011.<sup>2</sup>
- » Total value of imports and exports for the first quarter amounted to US \$ 859.37 billion with a year-on-year growth of 7.3 percent. China had a trade surplus of about US \$ 25 billion in the first quarter accounting for just 1.4 percent of GDP, half last year's proportion and below 10.1 percent as seen in 2007.<sup>3</sup>
- » China has decided to launch a rare earth industry association which shall include majority of companies in the industry in order to provide production guidelines, market research and channels of communication between relevant companies and the government for better coordination also in addition it will influence rare earth import and export quotas.<sup>4</sup>
- » China has decided to cut import duties on selected energy products and raw materials as well as consumer goods to promote purchases. Vice Premier Li Keqiang has said that China will import US \$ 10 trillion worth of goods and services in the five years ending in 2015.<sup>5</sup>
- » China has entered into a free-trade agreement with Costa Rica emphasizing on liberalization of trade in services with respect to the establishment of free-trade area pursuant to Article XXIV of the GATT.<sup>6</sup>
- » Ministry of Commerce decided to review anti-dumping measures imposed on Nonylphenol imported from India and Taiwan.<sup>7</sup>
- » MOC levied antidumping duties on imported Bisphenol A originating from Japan, ROK, Singapore and Taiwan.<sup>8</sup>

---

1 "PBC's Monetary Policy Committee Held its First Quarterly Meeting in 2012", PBC Official site, (20 Apr. 2012) at <http://www.pbc.gov.cn/publish/english/955/2012/20120412144358810617598/20120412144358810617598.html>

2 Id.

3 *Brief Statistics on China's Import and Export in January 2012*" MOC Official site, (10 May 2012), at <http://english.mofcom.gov.cn/aarticle/statistic/BriefStatistics/201204/20120408047674.html>

4 "Rare earth association to launch next month", Chinese Government Web Portal China Daily, (31 Mar. 2012) at [http://english.gov.cn/2012-03/31/content\\_2104340.htm](http://english.gov.cn/2012-03/31/content_2104340.htm)

5 Bao Chang and Cang Wei, "China to cut import duties" China Daily, (2 April, 2012), at [http://www.chinadaily.com.cn/china/2012-03/31/content\\_14956503.htm](http://www.chinadaily.com.cn/china/2012-03/31/content_14956503.htm)

6 "Notification of Regional Trade Agreement", S/C/N/618, WTO Website, (29 Mar, 2012), at

[http://docsonline.wto.org/GEN\\_highLightParent.asp?qu=%28+%40meta%5FSymbol+S%FCC%FCN%FC%2A%29+and+%28+%40meta%5FTitle+China+and+not+%28Macao+or+%28Hong+Kong+China%29+or+%28Macao+China%29%29%29&doc=D%3A%2FDDFDDOCUMENTS%2FT%2FS%2FC%2FN618%2EDOC%2EHTM&curdoc=3&popTitle=S%2FC%2FN%2F618%3Cbr%3EWT%2FREG310%2FN%2F1](http://docsonline.wto.org/GEN_highLightParent.asp?qu=%28+%40meta%5FSymbol+S%FCC%FCN%FC%2A%29+and+%28+%40meta%5FTitle+China+and+not+%28Macao+or+%28Hong+Kong+China%29+or+%28Macao+China%29%29%29&doc=D%3A%2FDDFDDOCUMENTS%2FT%2FS%2FC%2FN618%2EDOC%2EHTM&curdoc=3&popTitle=S%2FC%2FN%2F618%3Cbr%3EWT%2FREG310%2FN%2F1)

7 "China to review anti-dumping measures on imported NP", Chinese Gov. Web Portal, Xinhua, (31 Mar. 2012) at [http://english.gov.cn/2012-03/28/content\\_2102032.html](http://english.gov.cn/2012-03/28/content_2102032.html)

- » Ministry of Commerce and the Customs Tariff Commission of the State Council made a decision to continue levying anti-dumping duties on imported potato starch originating in EU after an application was filed to review the termination thereof by the China Starch Association.<sup>9</sup>
- » MOC levied anti-dumping duties on imported Dichloromethane originating in UK, US, Netherlands, Germany and the ROK extending the anti-dumping measures for 5 years to August 2012. Hence, it will be terminated by said deadline in the absence of an application for further review.<sup>10</sup>
- » The investigating authority under the regulations of China directed the Customs Tariff Commission of the State Council to impose anti-dumping duties against Photographic paper and paper board imports from EU, US and Japan pursuant to the finding that dumping persists in the investigated products.<sup>11</sup>
- » EU, US and Japan requested consultations with China with respect to restrictions imposed by China on export of various forms of rare earths, tungsten and molybdenum in light of the fact that China holds about 36 percent of the world's total reserves of minerals.<sup>12</sup>
- » Appellate body ruled against China on the export restraints on raw materials dispute filed by Mexico as it violated China's Accession Protocol and article X:1, X:3(a) and XI:1 of GATT 1994.<sup>13</sup>
- » Director-General established panel for EU's dispute against China for imposing anti-dumping duties on X-Ray security inspection equipment on request from EU on 12 March 2012.<sup>14</sup>

---

8 “Announcement No. 12 of 2012 of the Ministry of Commerce of the People’s Republic of China on the Termination of Anti-dumping Measures against Bisphenol A”, MOC Official site, ( 30 March, 2012) at

<http://english.mofcom.gov.cn/aarticle/policyrelease/domesticpolicy/201203/20120308035977.html>

9 “Announcement No. 2 of 2012 of the Ministry of Commerce of the People’s Republic of China on Final Review of Anti-dumping Measures against Potato Starch Imports”, MOC Official site, (20 Apr. 2012) at

<http://english.mofcom.gov.cn/aarticle/policyrelease/domesticpolicy/201203/20120308032921.html>

10 “Announcement No. 5 of 2012 of the Ministry of Commerce of the People’s Republic of China on the Termination of Anti-dumping Measures against Dichloromethane”, MOC Official website, (20 Apr. 2012) at

<http://english.mofcom.gov.cn/aarticle/policyrelease/domesticpolicy/201203/20120308032992.html>

11 “Announcement No. 10 of 2012 of the ministry of commerce of the People’s Republic of China on final ruling of the Anti-dumping investigation against Photographic Paper and Paper Board Imports from the EU, the US and Japan” MOC Official site, (5 May, 2012) at

<http://english.mofcom.gov.cn/aarticle/policyrelease/domesticpolicy/201205/20120508111766.html>

12 “China- Measures related to the Exportation of Rare Earths, Tungsten and Molybdenum” WTO Official site, Document-G/L/982~WT/DS431/1, (5 May, 2012)

13 “Appellate body issues reports on raw materials disputes” WTO Official site, (5 May, 2012) at

[http://www.wto.org/english/news\\_e/news12\\_e/394\\_395\\_398abr\\_e.htm](http://www.wto.org/english/news_e/news12_e/394_395_398abr_e.htm)

14 “China-Definitive Anti-Dumping Duties on X-Ray Security Inspection Equipment from the European Union” WTO Official site, Dispute-D425, (5 May, 2012) at [http://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds425\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds425_e.htm)

## **AGENDA FOR THE NEXT QUARTERLY REPORT 2012**

- 1) China and US dispute on US anti-dumping ruling against Chinese makers of solar power equipment will be an important trade issue. As China warned US that such high tariffs will restrain the efforts to promote clean energy. This dispute arose in the backdrop of bankruptcy of the California-based company Solyndra LLC due to Chinese competition in Solar-power equipment market. The company received US \$ 528 million from US Government as a rescue package. Whereby China launched its own investigations to whether such grants to the industries in wind, solar and other renewable technology is an improper trade barrier.<sup>15</sup>
- 2) Conflicts with US, Japan and EU regarding the rare earth export prohibition measures by China will be another issue. MOC has decided to increase rare earth export quotas by 10,680 tonnes as China has allowed more companies to export rare earths after they meet environment standards. Rare earths are a collection of 17 elements used in products from smart phones to hybrid cars. China exported 30,184 tonnes of rare earth last year itself.<sup>16</sup>
- 3) China's FDI has fallen for the sixth straight month in April as it faces critical competition from other developing countries to attract foreign investment.<sup>17</sup>
- 4) Chinese authorities after 6 years of consultation process agreed to Indian exports of basmati rice given the difficulties faced to navigate complex bureaucratic hurdles that bar entry into China's market. China's General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) promulgated the information. Indian exporters will be able to start the exports of basmati after both countries decide on a mutually satisfactory quarantine protocol. Before accepting the said imports China requires to circulate the certificate of accepted quarantine to all its ports and custom authorities. There is a potential trade of US \$ 50-100 million. Two substantial barriers for Indian exporters will be the presence of Pakistani basmati rice brands and the niche demand for the product largely from international five-star hotels and the small number of Indian restaurants in China. Also the Chinese demand for more sticky varieties of rice that can be eaten with chopsticks could deter local demand of Basmati from India.<sup>18</sup>

### **I. ECONOMIC ENVIRONMENT**

GDP increased by 8.1 percent to 10.8 trillion RMB in the first quarter of 2012 as compared to the year 2011. However, the growth rate decreased for five successive quarters. An analysis based on the domestic economic environment, the short-term slowdown of China's economy has been the result of slowing-down of the investment brought by the macroeconomic control on the real estate and over-production capacity.<sup>19</sup>

---

15 Joe Mcdonald "*Chinese-American Solar Power Dispute Deepens*" Morning Sun, (20 May, 2012), at <http://www.themorningsun.com/article/20120518/FINANCE01/120519592/chinese-american-solar-power-dispute-deepens&pager=2>

16 "*China trade ministry increases rare earth export quota*" BBC Business News site, ( 18 May 2012) at <http://www.bbc.co.uk/news/business-18112986>

17 "*UPDATE: Foreign Investment Into China Down for 6th Straight Month*" THE WALL STREET JOURNAL site, at <http://online.wsj.com/article/BT-CO-20120515-703241.html>

18 Ananth Krishnan, "*After six-year wait, basmati rice scales China's trade walls*" THE HINDU, (25 April, 2012), at <http://www.thehindu.com/business/Economy/article3348214.ece>

19 "*China's economic slowdown not a concern*, People's Daily Online, (19 Apr. 2012) at <http://english.peopledaily.com.cn/102774/7792966.html>

The growth of GDP in the first quarter was at its slowest rate in nearly three years.<sup>20</sup> Absolute value calculated at current price of GDP growth for the first quarter was 10799500 million RMB which can be subdivided in to-

- 1.Primary Industry- 692200 million RMB
- 2.Secondary Industry- 5145050 million RMB
- 3.Tertiary Industry- 4962250 million RMB

## **II. MONETARY POLICY**

### **Finance**

In the first quarter, the all-system financing aggregate amounted to 3.88 trillion RMB, down 348.7 billion RMB from the same period last year. RMB loans increased by 2.46 trillion RMB, up 217 billion RMB year-on-year. Foreign currency loans converted to RMB rose by 132.7 billion RMB, down 45.4 billion RMB year-on-year. Entrusted loans saw an increase of 280.9 billion RMB, down 39.5 billion RMB year-on-year.

Trust loans expanded by 172.1 billion RMB, up 163 billion RMB year-on-year. Undiscounted bank acceptances rose by 227.1 billion RMB, down 534 billion RMB year-on-year. Enterprises' net financing through bonds reached 396 billion down by 68.3 billion RMB year-on-year. By percentage share, RMB loans were 63.5 percent of the first quarter's all-system financing aggregate, up by 10.4 percent year-on-year. Foreign currency loans were 3.4 percent down by 0.8 percent year-on-year.

Entrusted loans were 7.2 percent, down by 0.4 percent year-on-year. Trust loans were 4.4 percent up by 4.2 percent year-on-year. Undiscounted bank acceptances were 5.9 percent down by 12.1 percent year-on-year, while bond financing by enterprises were 10.2 percent down by 0.6 percent year-on-year. Equity financing by non-financial enterprises on the domestic stock market was 2.3 percent down by 1.4 percent year-on-year.<sup>21</sup>

### **Money supply**

Money supply in China is accounted for under the heads Broad money and Narrow money. Broad money refers to financial instruments other than currency and coins while narrow money is the currency and coins. In the first quarter, the broad money stood at 89.56 trillion RMB increasing by 13.4 percent year-on-year, up by 0.4 percent from end February and down by 0.2 percent from the end of 2011.

Narrow money registered 27.80 trillion RMB with a rise of 4.4 percent year-on-year, 0.1 percent rise from end-February and down 3.5 percent from end 2011. While currency in circulation posted 4.96 trillion RMB, increasing by 10.6 percent year-on-year up by 1.8 percent from end-February and down by 3.2 percent points from end-2011. The first quarter recorded a net money withdrawal of 115.4 billion RMB. In the first quarter, Consumer-Price-Index which is the main gauge of inflation rose by 3.8 percent year-on-year.<sup>22</sup>

### **Loans**

RMB loans in the month of March saw an increase of 1.01 trillion RMB up by 332 billion RMB year-on-year. By the end of March 2012, outstanding RMB and foreign currency loans totaled 60.77 trillion RMB with a rise of 15.5 percent year-on-year. Outstanding RMB loans registered 57.25 trillion RMB with a rise of 15.7 percent year-on-year and 0.5 percent from end-February, while a decrease of 0.1 percent from end-2011. RMB loans registered an increase of 2.46 trillion RMB in the first quarter with a rise of 217 billion RMB year-on-year.

---

20 *Commodities-Down, ending volatile week; China GDP disappoints*, Thomson Reuters, (20 Apr. 2012) at <http://www.reuters.com/article/2012/04/13/markets-commodities-idUSL2E8FDDHB20120413>

21 "Financial Statistics, Q1 2012" PBC official site, (10 May 2012) at

[http://www.pbc.gov.cn/publish/english/955/2012/20120509103239879555418/20120509103239879555418\\_.html](http://www.pbc.gov.cn/publish/english/955/2012/20120509103239879555418/20120509103239879555418_.html)

22 "China inflation shoots up 3.8 percent in Q1" Xinhua, (10 May 2012), at [http://news.xinhuanet.com/english/china/2012-04/09/c\\_131514635.htm](http://news.xinhuanet.com/english/china/2012-04/09/c_131514635.htm)



By sector, loans to households rose by 499.5 billion RMB with short-term loans, medium and long-term loans increasing by 258.1 billion RMB and 241.4 billion RMB respectively. Loans to non-financial enterprises and other sectors rose by 1.95 trillion RMB with short-term loans increasing by 1.05 trillion RMB, medium and long term loans increased by 590.6 billion RMB and bill financing increased by 257.5 billion RMB respectively. By the end of March 2012, outstanding foreign currency loans registered US \$ 559.5 billion, up by 17.2 percent year-on-year while it saw an increase by US \$ 21.2 billion in the first quarter.<sup>23</sup>

In January, RMB trading in the interbank market amounted to 12.16 trillion RMB. The average daily turnover registered 715.4 billion RMB up 19.3 percent year-on-year. While in February, RMB trading in the interbank market amounted to 18.40 trillion RMB. The average daily turnover registered 876.1 billion RMB up 45.4 percent year-on-year.<sup>24</sup>

In the month of February RMB cross-border trade settlement and RMB settlement of direct investment reached 190.7 billion RMB and 12 billion RMB respectively. In February 2012, RMB settlement in cross-border trade in goods, cross-border trade in services and other current accounts, outbound FDI and inbound FDI amounted to 133.6 billion RMB, 57.1 billion RMB, 400 million RMB and 11.6 billion RMB respectively.<sup>25</sup>

### **Deposits**

RMB deposits rose by 3.76 trillion RMB in the first quarter down by 218.5 billion RMB year-on-year. Specifically, household deposits and fiscal deposits rose by 3.14 trillion RMB and 67.9 billion RMB respectively while deposits of non-financial enterprises fell by 70.7 billion RMB. The outstanding balance of foreign currency deposits increased by US \$ 66.8 billion in the first quarter.<sup>26</sup>

### **Bank lending rate, exchange rate and interest rate on bonds**

In the first quarter, RMB trading in the interbank market amounted to 55.65 trillion RMB. The average daily turnover accounted to 912.3 billion RMB up by 36.5 percent year-on-year. The monthly weighted average interbank lending rate for March stood at 2.58 percent down by 0.80 percent from the previous month. The monthly weighted average interest rate on bond pledged repos registered 2.66 percent down by 0.92 percent from the previous month. The RMB exchange rate was 6.2943 RMB per dollar. In the first quarter, RMB settlement in cross-border trade in goods amounted to 416.6 billion RMB. While cross border trade services and other current accounts amounted to 163.8 billion RMB.<sup>27</sup>

### **Foreign-funded Banks**

China reduced the RMB required reserve ratio for deposit taking financial institutions by 0.5 percentage points effective from 24 February 2012.<sup>28</sup> NDRC stated that foreign funded banks in China have been allowed to borrow as much as US \$ 24 billion of medium and long-term external debt in the year 2012. This plan aims to open China's banking sector to foreign markets and helps foreign banks to bring foreign investment into China which will consequently promote globalization of Chinese enterprises.

HSBC, Deutsche Bank, JP Morgan Chase, Citibank, Sumitomo Mitsui Banking Corporation and the Bank of East Asia have been chosen to enforce this pilot scheme for issuance of external debt. Foreign banks however, are

---

23 Id.

24 Id.

25 Id.

26 "Financial Statistics, Q1 2012" PBC official site, (10 May 2012) at

[http://www.pbc.gov.cn/publish/english/955/2012/20120509103239879555418/20120509103239879555418\\_.html](http://www.pbc.gov.cn/publish/english/955/2012/20120509103239879555418/20120509103239879555418_.html)

27 Id.

28 "RMB Required Reserve Ratio for Deposit Taking Institutions Cut by 0.5 percentage Points", PBC Official site, (20 Apr. 2012) at

[http://www.pbc.gov.cn/publish/english/955/2012/20120227172256393663207/20120227172256393663207\\_.html](http://www.pbc.gov.cn/publish/english/955/2012/20120227172256393663207/20120227172256393663207_.html)

obligated to report the size, tenure and overseas creditors of RMB-denominated funds whose terms are one year or above to the NDRC.<sup>29</sup>

PBC stated that banking system liquidity was satisfactory by the end of March, as financial institutions' cash reserves totaled 1.8 trillion RMB (US \$ 290 billion) and the cash reserve ratio reached 2.2 percent. In the second quarter, nearly 800 billion RMB (US \$ 126.8328 billion) will flow into the market, which means the liquidity supply will stay relatively high.<sup>30</sup>

### **PBC's monetary policy meeting**

It was emphasized in the first quarterly meeting of PBC that efforts should be made to follow the latest domestic, international economic and financial developments with respect to their impacts, to continue the implementation of a prudent monetary policy, make macro-management policies better targeted, more flexible and forward looking, strike a balance among maintaining stable and relatively fast economic growth, keeping the general price level stable and preventing financial risks according to the requirements of keeping the financing volumes at a reasonable level and making counter-cyclical adjustment in a prudential and flexible manner.

A mix of monetary policy tools will be employed to keep the money and credit aggregates and the all system financing aggregate at reasonable volumes. Efforts will be made to guide financial institutions in order to improve their financial services to better serve the real economy.

The role of direct financing will be further tapped to meet the diverse demand for investment and funding to promote the sound development of financial markets. Efforts will be made to promote the market-based reform of interest rates and explore an effective way to that end, to further improve the RMB exchange rate regime, increase the two-way flexibility of RMB exchange rate fluctuations and keep the RMB exchange rate basically stable at an adaptive and equilibrium level.<sup>31</sup>

### **Currency swap agreements**

#### **PBC and the Reserve Bank of Australia**

Authorized by the State Council, PBC signed a bilateral local currency swap agreement with the Reserve Bank of Australia in Beijing. The purpose behind such an agreement is to promote bilateral financial co-operation, facilitating bilateral trade and investment also safeguarding regional financial stability. The agreement amount is 200 billion RMB or US \$ 30 billion. The agreement is scheduled to expire in three years, but with mutual consent it can be extended.<sup>32</sup>

#### **PBC and the Bank of Mongolia**

Authorized by the State Council on 20 March 2012, PBC signed a bilateral local currency swap supplemental agreement with the Bank of Mongolia in Beijing. The amount of the agreement was increased from 5 billion

---

29 "China grants 24 bln USD of external debts for foreign banks", Chinese Gov. Web Portal, Xinhua, (31 Mar. 2012) at [http://english.gov.cn/2012-03/30/content\\_2103390.htm](http://english.gov.cn/2012-03/30/content_2103390.htm)

30 "Update: China PBOC Says Liquidity Ample In Current Quarter" Market News international, DEUTSCHE BORSE GROUP, (20 April, 2012) at <https://mninews.deutsche-boerse.com/content/update-china-pboc-says-liquidity-ample-current-quarter>

31 "PBC's Monetary Policy Committee Held its First Quarterly Meeting in 2012", PBC Official site, (20 Apr. 2012) at <http://www.pbc.gov.cn/publish/english/955/2012/20120412144358810617598/20120412144358810617598.html>

32 "Establishment of a Bilateral Local Currency Swap Agreement between the People's Bank of China and the Reserve Bank of Australia", PBC Official site, (20 Apr. 2012) at <http://www.pbc.gov.cn/publish/english/955/2012/20120323154342227247121/20120323154342227247121.html>

RMB to 10 billion RMB. The purpose behind this arrangement is to help in facilitating trade and safeguarding regional financial stability.<sup>33</sup>

#### **PBC and the Central Bank of the Republic of Turkey**

Authorized by the State Council on February 21, 2012, PBC signed a bilateral local currency swap agreement with the Central Bank of the Republic of Turkey. The purpose behind the agreement is to promote bilateral financial cooperation, facilitating bilateral trade and investment also maintaining regional financial stability. The amount of the agreement is 10 billion RMB. The agreement is scheduled to expire in 3 years; however it could be extended by an agreement between the two parties.<sup>34</sup>

#### **PBC and the Central Bank of UAE**

Authorized by the State Council, PBC on January 17, 2012, signed a bilateral local currency swap agreement with the Central Bank of the UAE with the purpose of promoting bilateral financial cooperation, facilitating bilateral trade and investment while maintaining regional financial stability. The agreement amount is 35 billion RMB. The agreement is scheduled to expire in 3 years which could be extended by agreement between the two parties.<sup>35</sup>

#### **PBC and Qatar Central Bank**

PBC signed a MOU on 18 January 2012 with the Qatar Central Bank to promote bilateral exchange and cooperation.<sup>36</sup>

### **III. FDI**

China received US \$ 29.5 billion FDI in the first quarter of 2012 which is a decrease of 2.8 percent from 2011. There was a US \$ 124 billion increase in China's foreign exchange reserves amounting to US \$ 3.31 trillion in the first quarter of 2012 from a decline of US \$ 20.6 billion in the fourth quarter of 2011. It is evident that the capital stock is coming back to China on a firm basis to create credit and growth in money supply.<sup>37</sup>

RMB direct investment amounted to 49.9 billion RMB. Outbound and inbound FDI amounted to 2.9 billion RMB and 47 billion RMB respectively. According to Foreign Investment Bulletin, in January, the number of newly approved foreign-funded enterprises in China reached 1,402, down by 37.49 percent year-on-year and actually used foreign investment totaled US \$ 9.997 billion, down by 0.3 percent year-on-year. During the same period, the number of newly established enterprises funded by ten Asian countries/regions (Hong Kong, Macao, Taiwan, Japan, Philippines, Thailand, Malaysia, Singapore, Indonesia, ROK) is 1,105, down by 37.82 percent year-on-year, and the actual input (Actual production by a producer different from an expected production given

---

33 "Establishment of a Bilateral Local Currency Swap Supplemental Agreement between the People's Bank of China and Bank of Mongolia", PBC Official site, (20 Apr. 2012) at

[http://www.pbc.gov.cn/publish/english/955/2012/20120323091436517967877/20120323091436517967877\\_.html](http://www.pbc.gov.cn/publish/english/955/2012/20120323091436517967877/20120323091436517967877_.html)

34 "Establishment of a Bilateral Local Currency Swap Agreement between the People's Bank of China and the Central Bank of the Republic of Turkey", PBC Official site, (20 Apr. 2012) at

[http://www.pbc.gov.cn/publish/english/955/2012/20120227172942258815977/20120227172942258815977\\_.html](http://www.pbc.gov.cn/publish/english/955/2012/20120227172942258815977/20120227172942258815977_.html)

35 "Establishment of a Bilateral Local Currency Swap Agreement Between the People's Bank of China and Central Bank of the UAE", PBC Official site, (20 Apr. 2012) at

[http://www.pbc.gov.cn/publish/english/955/2012/20120120150020734291266/20120120150020734291266\\_.html](http://www.pbc.gov.cn/publish/english/955/2012/20120120150020734291266/20120120150020734291266_.html)

36 "MOU Signed between People's Bank of China and Qatar Central Bank", PBC Official site, (20 Apr. 2012) at

[http://www.pbc.gov.cn/publish/english/955/2012/20120119083854553422479/20120119083854553422479\\_.html](http://www.pbc.gov.cn/publish/english/955/2012/20120119083854553422479/20120119083854553422479_.html)

37 "Update 1-China Q1 FDI inflow at \$29.5 bln, down 2.8 pct from a year ago" Thomson Reuters, (10 May 2012) at

<http://www.reuters.com/article/2012/04/17/china-economy-fdi-idUSL6E8FH00P20120417>

capital which is measured to calculate waste or defects in the production process) are US \$ 8.586 billion, up by 0.77 percent year-on-year.

The actual use of foreign capital from the top ten accounts for 92.95 percent of total actually used foreign capital.<sup>38</sup> China received US \$ 29.5 billion FDI in the first quarter of 2012, down to 2.8 percent from the same period in 2011. In March, China attracted US \$ 11.8 billion in FDI, down to 5.6 percent.<sup>39</sup>

### **III.1. INVESTMENT IN CHINA**

PBC announced a pilot program of investment by fund management companies and securities companies approved as Renminbi Qualified Foreign Institutional Investors (RQFII) in domestic securities markets. With respect to ‘Measures for the Administration of Overseas Institutions’ RMB Settlement Accounts, the pilot institution shall open a RQFII basic deposit account (BDA) as well as RQFII special deposit account (SDA) with a domestic commercial bank eligible to act both as a QFII custodian and a settlement agent in the interbank bond market (custodian and settlement agent bank).<sup>40</sup>

### **III.2 INVESTMENT PROMOTION MEASURES**

#### *New State-level Taiwanese Investment Zone established in Fujian*

On approval by the State Council the investment zone located along the Taiwan Strait in Quanzhou was amended from Quanzhou provincial-level Taiwanese Investment zone. This investment zone shall provide productive services and a more convenient investment environment with limited authority for examination and approval procedures. According to the local authorities the said investment zone will be in the area of wind power equipment manufacturing, photo-electricity, intelligent transportation and high-end service industries.

Consequently, another Taiwanese investment zone in Fujian known as the Fuzhou Taiwanese Investment Zone (FTIZ) was expanded to 11.46 square km from 1.8 square km. It will be a base for metallurgy, electricity, IT and equipment manufacturing according to the local authorities.<sup>41</sup>

## **IV. CHINA’S FLOW OF TRADE**

### **IV.I IMPORTS AND EXPORTS**

China has set a growth rate of 10 percent for imports and exports in 2012. Overall in the first quarter, according to the Custom Administration the total value of exports was 430.02 billion with a year-on-year growth of 7.6 percent and imports were US \$ 429.35 billion with a year-on-year growth of 7.6 percent with a trade surplus of US \$ 670 million. The amount of trade in the first quarter of 2012 amounted to US \$ 859.37 billion with a year-on-year growth of 7.3 percent.

---

38 “Statistics of January 2012 on National Absorption of FDP” MOC Official site, (10 May 2012) at <http://english.mofcom.gov.cn/aarticle/newsrelease/significantnews/201203/20120307993288.html>

39 “China Q1 FDI inflow down 2.8 pct on year to \$29.5 bln” (April 18, 2012), available at, <http://www.reuters.com/article/2012/04/17/china-economy-fdi-idUSB9E8D701M20120417>

40 “PBC Announcement on Implementation of RQFII Pilot Program”, PBC Official website, (20 Apr. 2012) at <http://www.pbc.gov.cn/publish/english/955/2012/20120227171723053208048/20120227171723053208048.html>

41 “New state-level Taiwanese investment zone established in Fujian”, Chinese Gov. Official website, (5 May 2012), at [http://english.gov.cn/2012-01/31/content\\_2055253.htm](http://english.gov.cn/2012-01/31/content_2055253.htm)

China's import and export in the month of January 2012 added to US \$ 272.60 billion with a year-on-year decrease of 7.8 percent accounting for US \$ 149.94 billion of exports and US \$ 122.66 billion of imports with a decrease by 0.5 percent and 15.3 percent respectively.<sup>42</sup>

For the month of February, China's import and export added to US \$ 260.43 billion with a year-on-year growth of 29.4 percent accounting for US \$ 114.47 billion exports and US \$ 145.95 billion imports, an increase of 18.4 percent and 39.6 percent respectively.

China had trade surplus of US \$ 5.35 billion in the month of March 2012 due to improvement in global economy as evidenced by increasing overseas demand in the face of slowing domestic demand.<sup>43</sup> In the month of March, imports grew 5.3 percent while exports 8.9 percent.<sup>44</sup>

### **Rare Earth Association**

China has decided to launch rare earth industry association that shall include majority of companies in the industry in order to regulate the ill-regulated sector. The said association will be supervised under the Ministry of Industry and Information Technology. The main functions of the organization will include providing production guidelines, market research and channels of communication between the relevant companies and the government for better coordination also in addition it will play a role in influencing rare earth import and export quotas.

China which accounts for 97 percent of the world's output of the strategically important minerals faces pressure from the European Union, the United States and Japan, who filed a joint case in WTO against China over its alleged unfair control of the rare earth exports.

China holds about 36 percent of the world's total reserves of minerals and has paid a huge environmental cost for its largely unregulated and heavy exploration of rare earths. The State Council issued a document in May to develop China's rare earth industry in which it is said that the government aims to consolidate 80 percent of the heavy rare earth mining assets in southern China in the three biggest companies within next one to two years.<sup>45</sup>

## **V. MEASURES AFFECTING IMPORTS**

### **MOC revised regulations on the administration of certificates of import and export licensing**

MOC revised the Regulations on the Administration of Certificates of Import and Export Licensing after approval by the 58<sup>th</sup> Executive meeting of MOC on December 2011. It shall come into force on March 2012. The original Regulations on the Administration of Certificates of Import and Export Licensing shall be repealed simultaneously.<sup>46</sup>

### **China to cut import duties on certain energy products and raw materials**

---

42 "Brief Statistics on China's Import and Export in January 2012" MOC Official site, (10 May 2012), at <http://english.mofcom.gov.cn/aarticle/statistic/BriefStatistics/201204/20120408047674.html>

43 "China trade Q2 performance to improve from Q1, says Ministry of Commerce" Reuters, (10 May, 2012) at [http://articles.economictimes.indiatimes.com/2012-04-17/news/31355581\\_1\\_customs-administration-china-s-ministry-march-imports](http://articles.economictimes.indiatimes.com/2012-04-17/news/31355581_1_customs-administration-china-s-ministry-march-imports)

44 "China's Economic Figures for Q1 2012" China Briefing site, (10 May 2012) at <http://www.china-briefing.com/news/2012/04/16/chinas-economic-figures-for-q1-2012.html>

45 "Rare earth association "to launch next month", Chinese Government Web Portal China Daily, (31 Mar. 2012) at [http://english.gov.cn/2012-03/31/content\\_2104340.htm](http://english.gov.cn/2012-03/31/content_2104340.htm)

46 "Decree No. 1, 2012 of the Ministry of Commerce", MOC Official site, (20 Apr. 2012) at <http://english.mofcom.gov.cn/aarticle/policyrelease/domesticpolicy/201203/20120308032770.html>

China is the world's second largest importer. State Council has decided to further expand imports of China by cutting import duties on certain energy products and raw materials as well as consumer goods. The purpose of this measure is to promote domestic consumption by buying goods from its trade partners as China faces low domestic consumption under high domestic productivity. The decision to promote imports ironically comes after China experienced its largest monthly trade deficit in a decade for the month of February 2012.

Importing is being promoted to procure a high standard of living for Chinese people while also to solve trade frictions with trade partners. Vice Premier Li Keigiang asserted that China aims to import US \$ 10 trillion of goods and services in the five year span till 2015. While the director of the Ministry of Department of foreign trade, Wang Shouwen said that China aims to promote imports of capital goods and consumer goods. As one of the important priority regarding trade in China is to promote imports of capital goods especially spare parts and consumer goods. China's import in goods are be divided into three categories-

- 1.Capital goods
- 2.Consumer goods
- 3.Resources

Resources such as iron ore, copper and aluminium comprise largest part of China's imports. Whereas the present move to increase the imports of capital goods such as advanced spare products is going upgrade China's industry, in the promotion of investment and improving international competitiveness. China's import tariffs on energy products are generally low. For instance, an import duty of 1 percent is levied on mainstream gasoline products and diesel is duty-free.

China encourages importers to buy more from countries that have free trade agreements with China, such as Pakistan, New Zealand, and member countries of the Association of Southeast Asian Nations. At present, China has trade surpluses with 75 percent of its trading partners, resulting in a series of disputes and protectionist barriers.

To transform into a more consumer-driven economy, China is adopting a "buy more but not sell less" approach, which helped narrow its trade surplus by 14.5 percent in 2011 to US \$155 billion. In the month of February, China posted a US \$ 31.5 billion trade deficit as commodity imports pushed total purchases up 39.6 percent compared with a year ago, more than double the pace of export growth.

Last year, China's imports reached US \$ 1.74 trillion, accounting for 9 percent of the global figure. Currently, that amount is expected to grow about US \$ 100 billion annually. Thus expanding imports will be significant for the recovery of the global economy. As with more import liberalization, China's overall tariff rate is about 9.8 percent, much lower than the average of other developing economies.<sup>47</sup>

### **China revises categorization of Imported Goods and Tariff**

GAC issued a revised "Table of Categorization for the imported articles of China" on 28 March 2012 which shall come in effect on 15 April 2012. The said categorization table is as follows-

---

<sup>47</sup> Bao Chang and Cang Wei, "China to cut import duties" China Daily, (2 April, 2012), at [http://www.chinadaily.com.cn/china/2012-03/31/content\\_14956503.htm](http://www.chinadaily.com.cn/china/2012-03/31/content_14956503.htm)

<b>Tariff Number</b>	<b>Category</b>	<b>Details</b>	<b>Rate</b>
01000000	Food and Beverage	Food: Fish products, dairy product, sugar, seasoning and other health or nutrition product  Beverage: Tea, coffee and other non-alcoholic beverages	10 percent
02000000	Alcoholic Beverages	Beer, wine (champagne), fruit wine, sake, rice wine, brandy, whisky, vodka, rum, gin, Chinese spirits, liqueur, tequila, cordials, plum wine and other liquor made out of sugar	50 percent
03000000	Tobacco	Cigarettes, cigars and other tobacco-based products	50 percent
04000000	Textiles and finished products	Clothing: Jackets, pants, underwear, shirts and other clothes  Accessories: Hats, scarfs, ties, belts, gloves, socks, handkerchief  Home textiles: Blankets, quilts, pillow, covers, sleeping bags  Others: Towels, table cloths, curtains and carpets	20 percent
05000000	Leather garments and accessories	All kinds of garments and accessories made out of leather	10 percent
06000000	Bags and shoes	Bags: Cases of all kinds, satchels, backpacks and handbags of all kinds.  Others: Wallets, key holders, card holders of all kinds, cosmetic bags, packing bags/cases/boxes  Shoes: Leather shoes, leather boots, sneakers and other kinds of shoes	10 percent
07000000	Watches, clocks and accessories	Luxury watches: Watches worth more than 10,000 RMB  Watches: All kinds of watched  Clocks: Desk Clocks, wall clocks and ground clocks  Accessories: All related accessories for watches and clocks	20 percent

08000000	Gold and silver	Gold and silver jewelry, finished products, art pieces and collections	10 percent
09000000	Cosmetics	Fragrance and related products, skincare products, make-up products, reshaping cream, lifting cream and deodorizers	50 percent
10000000	Medical, health and beauty	Medical: Home-use respiratory equipment, hem manometers, wheel chairs and related accessories  Health: Massage chairs, massage beds and related accessories  Beauty: Skincare/make-up tools and related accessories	10 percent
11000000	Kitchen utensils and home appliances	Kitchen utensils: All kinds of kitchenware and hand-held appliances  Bathroom utensils: Taps and showers  Other: Telephones and fax machines	10 percent
11000000	Kitchen utensils and home appliances	Kitchen appliances: Rice cookers, microwaves, dishwashers and coffee makers  Bathroom appliances: Water heaters  Other: Lighting, sewing machines, fans and heaters	20 percent
12000000	Furniture	All kinds of sofas, beds, shelves and other types of furniture	10 percent
13000000	Air conditioners	Air conditioners and related accessories	20 percent
14000000	Refrigerators	Refrigerators of all kinds, including wine cellars and related accessories	20 percent
15000000	Washing machines	All kinds of washing machines and related accessories	20 percent
16000000	Television	All kinds of televisions and related accessories	20 percent
17000000	Photographic equipment and accessories	Cameras related products and accessories	10 percent
17000000	Photographic equipment and accessories	Professional video cameras	20 percent



18000000	Audio and video equipment and accessories	Recorders, radios, MP3 devices and other related devices	20 percent
19000000	Computers and computer accessories	Personal computers and computer accessories	10 percent
20000000	Publications	Books, newspapers, magazines and other print publications	10 percent
21000000	Educational equipment	Films, cassettes, models and other equipment for educational purposes	10 percent
22000000	Stationary and toys	Stationary: All kinds of stationary including pens, albums and magnifiers  Toys: All types of toys	10 percent
23000000	Stamps	All kinds of stamps both from China and abroad	10 percent
24000000	Musical instruments	Keyboards, percussion instruments, string instruments and all related accessories	10 percent
25000000	Sports	Golf and golf accessories	30 percent
26000000	Cycling	Bicycles, tricycles, bikes for kids and related accessories	20 percent
27000000	Other	Other products that are not in the above-mentioned categories	10 percent

**Source:** China Briefing<sup>48</sup>

## **VI. MEASURES AFFECTING EXPORTS**

### **Export licence administration catalogue**

According to the promulgation issued by MOC and GAC, a catalogue of commodities has been issued subject to Export License Administration in 2012 in accordance with Foreign Trade Law of the China and Management Regulations for Commodity Import and Export of China.<sup>49</sup>

Commodities subject to export quotas are wheat, corn, rice, wheat flour, corn flour, rice flour, cotton, sawn timber, live cattle (to Hong Kong and Macao), live pigs (to Hong Kong and Macao), live chicken (to Hong Kong

48 “China revises categorization of imported goods and tariff rates” China Briefing, (10 May 2012) at <http://www.china-briefing.com/news/2012/03/30/china-revises-categorization-of-imported-goods-and-tariff-rates.html#more-16026>

49 “Announcement No. 98 in 20122 of Ministry of Commerce and General Administration of the Customs Publishing Catalogue of Commodities Subject to Export License Administration in 2012”, MOC Official site, (5 May, 2012) at <http://english.mofcom.gov.cn/aarticle/policyrelease/domesticpolicy/201201/20120107931949.html>

and Macao), coal, coke, crude oil, refined oil, rare earth, antimony and antimony products, tungsten and tungsten products, zinc ore, tin and tin products, silver, indium and indium products, molybdenum and phosphate ore.<sup>50</sup>

While commodities which are subject to quota bidding are mat rush and mat rush products, silicon carbide, talcum lump (powder), magnesia, alumina, licorice and licorice products. Commodities subject to export licensing control are live cattle (to markets other than Hong Kong and Macao), live pigs (to markets other than Hong Kong and Macao), live chicken (to markets other than Hong Kong and Macao), fresh chilled beef, frozen beef, fresh chilled pork, frozen pork, fresh chilled chicken, frozen chicken, ozone depleting substances, paraffin, zinc and zinc-based alloys, certain metals and metal products, platinum (for processing trade), automobiles (including complete knock down kits) and their chassis, motorcycles (including all-terrain vehicles) and their engines and frames, natural sand (including standard sand), molybdenum products, citric acid, vitamin C, penicillin industrial salt and disodium sulphate.<sup>51</sup>

Whereas live cattle, live pigs and live chicken for export to Hong Kong and Macao are subject to country/ region quota license control under a global licensing policy. Natural sand for export to Hong Kong, Macao and Taiwan are subject to export licensing and natural standard sand are subject to global export licensing control. Corn, rice, coal, crude oil, refined oil, cotton, alimony products, tungsten and tungsten products and silver are subject to state-operated trade management.<sup>52</sup>

### **VAT rebates for companies developing their own animation software products**

China will offer VAT refunds to the animation industry in 2012 in an effort to promote cultural development. Specially, for companies developing their own animation products a 17 percent VAT will be levied but a part of VAT which exceeds 3 percent of the taxpayers' actual VAT burden will be refunded upon tax collection according to MOF. For the time, business tax for animation companies and their income from the sales of their copyrights will be 3 percent.

Due to rebates on tax China produced 385 animated movies in 2011 which is 28 percent year-on-year increase. The animation industry earned 500 million RMB equivalent to US \$ 79.35 million from exports of animated movies in 2010 which was a rise of 60 percent year-on-year, according to the State Administration of Radio, Film and Television.<sup>53</sup>

## **VII. TRADE AGREEMENTS AND ARRANGEMENTS**

### **Costa Rica and China**

According to the notification pursuant to the Council for Trade in Services on 28 February 2012, China and Costa Rica established a Free Trade Agreement enforced from 1 August 2011. This agreement provides for a free-trade area between China and Costa Rica pursuant to Article XXIV of the GATT 1994 while emphasizing for the liberalization of trade in services between China and Costa-Rica pursuant to Article V of the GATS.<sup>54</sup>

---

50 Id.

51 Id.

52 Id.

53 "China to continue VAT refunds for animation industry." Chinese Gov. Official website, (5 May 2012) at [http://english.gov.cn/2012-01/01/content\\_2035443.htm](http://english.gov.cn/2012-01/01/content_2035443.htm)

54 "Notification of Regional Trade Agreement", S/C/N/618, WTO Website, (29 Mar, 2012), at [http://docsonline.wto.org/GEN\\_highLightParent.asp?qu=%28+%40meta%5FSymbol+S%FCC%FCN%FC%2A%29+and+%28+%40meta%5FTitle+China+and+not+%28Macao+or+%28Hong+Kong+China%29+or+%28Macao+China%29%29%29&doc](http://docsonline.wto.org/GEN_highLightParent.asp?qu=%28+%40meta%5FSymbol+S%FCC%FCN%FC%2A%29+and+%28+%40meta%5FTitle+China+and+not+%28Macao+or+%28Hong+Kong+China%29+or+%28Macao+China%29%29%29&doc)

## **VIII. CONTINGENT TRADE PROTECTION**

### **VIII.1 ANTI-DUMPING**

#### **MOC review of anti-dumping measures against Nonylphenol (NP)**

MOC will review China's anti-dumping measures on nonylphenol (NP) imported from India and Taiwan. The review is to evaluate the contingency for dumping and damages if the measures were lifted. This measure was enforced for a five year period whereby anti-dumping duties ranging from 4.08 percent to 20.38 percent on NP imports from India and Taiwan were imposed, if the imports were hurting the interests of domestic producers. The review began on Dec. 30, 2011 and will end within 12 months.<sup>55</sup>

#### **MOC on the termination of anti-dumping measures against Bisphenol A**

MOC levied anti-dumping duties on imported Bisphenol A originated from Japan, ROK, Singapore and Taiwan from August 2007 to August 2012. The said termination in the absence of any initiative or petition to MOC for a final review on such anti-dumping measures, the said measure will be terminated on August 30, 2012.<sup>56</sup>

#### **Final Review of Anti-dumping Measures against Potato Starch Imports**

On December 1, 2010, the Potato Starch Council of China Starch Industry Association submitted, on behalf of domestic potato starch industry, a written application for final review on the dumping margin of potato starch imports from the EU. The application said that termination of the anti-dumping duties on potato starch imports from EU levied on February 2007 for 5 years may result in the continuation of recurrence of dumping, as well as injury to China's potato starch industry.

According to the proposal of MOC, the Customs Tariff Commission of the State Council made a decision to continue to levy anti-dumping duties on imported potato starch originated in the EU in accordance with the anti-dumping tax scope and rate as released in MOC Announcement No. 16 of 2011 during the final review investigation period.<sup>57</sup>

#### **Termination of anti-dumping measures against Dichloromethane**

MOC levied anti-dumping duties on imported Dichloromethane originated in the UK, the US, the Netherlands, Germany and the ROK, extending the anti-dumping measures for five years to August 2012. In the absence of any petition to or initiative by the MOC the said measures will be terminated on August 2012.<sup>58</sup>

---

=D%3A%2FDDDOCUMENTS%2FT%2FS%2FC%2FN618%2EDOC%2EHTM&curdoc=3&popTitle=S%2FC%2FN%2F618%3Cbr%3EWT%2FREG310%2FN%2F1

55 "China to review anti-dumping measures on imported NP", Chinese Gov. Web Portal, Xinhua, (31 Mar. 2012) at [http://english.gov.cn/2012-03/28/content\\_2102032.htm](http://english.gov.cn/2012-03/28/content_2102032.htm)

56 "Announcement No. 12 of 2012 of the Ministry of Commerce of the People's Republic of China on the Termination of Anti-dumping Measures against Bisphenol A", MOC Official site, (30 March, 2012) at <http://english.mofcom.gov.cn/aarticle/policyrelease/domesticpolicy/201203/20120308035977.html>

57 "Announcement No. 2 of 2012 of the Ministry of Commerce of the People's Republic of China on Final Review of Anti-dumping Measures against Potato Starch Imports", MOC Official site, (20 Apr. 2012) at <http://english.mofcom.gov.cn/aarticle/policyrelease/domesticpolicy/201203/20120308032921.html>

58 "Announcement No. 5 of 2012 of the Ministry of Commerce of the People's Republic of China on the Termination of Anti-dumping Measures against Dichloromethane", MOC Official website, (20 Apr. 2012) at <http://english.mofcom.gov.cn/aarticle/policyrelease/domesticpolicy/201203/20120308032992.html>

**Final ruling of the anti-dumping investigation against Photographic paper and paper board imports from EU, US and Japan**

Investigation by the investigating authority found that dumping persists in investigated products during the period of investigation and there is material injury to China's domestic photographic paper and paper board industry and that there is causation between the dumping and material injury. The investigating authority under the regulations of China on anti-dumping, directed to the Customs Tariff Commission of the State Council to impose anti-dumping duties. The Customs Tariff Commission decided to impose anti-dumping duties on photographic paper and paper board originated from the EU, the US and Japan from 23 March 2012.

Tariff lines of the investigated product are 37031010, 37032010 and 37039010 under the Customs Import and Export of the China. Specified rates of anti-dumping duties as provided by the Customs are:

*EU Companies*

- Kodak Limited- 19.4 percent
- FUJIFILM Manufacturing Europe B.V.- 17.5 percent
- All others 19.4 percent

*US Companies*

- FUJIFILM Manufacturing USA, Inc.- 16.2 percent
- All others 28.8 percent

*Japanese Companies*

- All Companies- 28.8 percent

Importers will have to pay anti-dumping duties to Chinese Customs when importing such products from 23 March, 2012. The anti-dumping duty will be levied by means of ad valorem on the basis of dutiable value authorized by Chinese Customs. Import VAT will be levied by means of ad valorem on the basis of dutiable value plus customs tariffs plus anti-dumping duty.

The deposit placed at Chinese Customs by importers from August 10, 2011 to March 22, 2012 will be retroactively be transformed as anti-dumping duties in accordance with the commodity range and the rate of anti-dumping duty prescribed in the final ruling and levied import VAT in accordance with relevant VTA rates. Chinese Customs will return the extra deposits if it exceeds the anti-dumping duty and the relevant Import VAT and will not levy the remaining if it is lower. Anti-dumping duties on those photographic paper and paper board imported before the release date of the announcement on taking provisional anti-dumping measures will not be levied retroactively.

This ruling on levying anti-dumping duty shall last for five years from the date of execution which is 23 March 2012. New exporters from EU, US and Japan who have not exported during the period of investigation and are so affected by this ruling are required to apply to the investigating authority for review as prescribed in Article 47 of the regulations of the China on anti-dumping.<sup>59</sup>

**IX. TECHNICAL REGULATIONS AND STANDARDS**

**Notifications**

---

59 "Announcement No. 10 of 2012 of the ministry of commerce of the People's Republic of China on final ruling of the Anti-dumping investigation against Photographic Paper and Paper Board Imports from the EU, the US and Japan" MOC Official site, (5 May, 2012) at <http://english.mofcom.gov.cn/aarticle/policyrelease/domesticpolicy/201205/20120508111766.html>

<b><i>Product Name</i></b>	<b><i>Notification</i></b>	<b><i>Purpose</i></b>	<b><i>Deadline for comments and the Date of notification</i></b>
1) Medicinal Vaseline ICS: 75.140	G/TBT/N/C HN/863	To regulate the medicinal Vaseline market and to protect human health	16 March 2012 and 27 January 2012
2) Cashmere ICS: 59.060.10	G/TBT/N/C HN/864	To regulate the market	27 March 2012 and 27 January 2012
3) Sheep wool ICS: 59.060.10	G/TBT/N/C HN/865	To regulate the market	27 March 2012 and 27 January 2012
4) Pharmaceutical Machinery ICS: 11.120 HS: 8479	G/TBT/N/C HN/866	To protect the health and safety of person	30 March 2012 and 30 January 2012
5) Spectacle lenses with anti-reflective coating ICS: 11.040.70 HS: 9004	G/TBT/N/C HN/867	To regulate the market while also to protect human vision and health.	30 March 2012 and 30 January 2012
6) Industrial automation products ICS: 19.080; 25.040.10 HS: 9030	G/TBT/N/C HN/868	To protect human safety.	30 March 2012 and 30 January 2012
7) Pressure (differential) transmitter used in industrial process ICS: 19.080, 25.040.10 HS: 9030	G/TBT/N/C HN/869	To protect human safety.	30 March 2012 and 30 January 2012
8) Temperature transmitter used in industrial process ICS: 19.080, 25.040.10 HS: 9030	G/TBT/N/C HN/870	To protect human safety.	30 March 2012 and 31 January 2012
9) Control valve used in industrial process ICS: 19.080, 25.040.10 HS: 9030	G/TBT/N/C HN/871	To protect human safety.	31 March 2012 and 31 January 2012
10) Flowmeter	G/TBT/N/C	To protect	31 March 2012 and

ICS: 19.080, 25.040.01 HS: 9030	HN/872	human safety.	31 January 2012
11) Solenoid valve used in industrial process  ICS: 19.080, 25.040.01 HS: 9030	G/TBT/N/C HN/873	To protect human safety.	31 March 2012 and 31 January 2012
12) Loop regulator used in industrial process  ICS: 19.080, 25.040.01 HS: 9030	G/TBT/N/C HN/874	Protection of human health and safety.	31 March 2012 and 31 January 2012
13) Electrical actuators used in industrial ICS: 19.080, 25.040.01 HS: 9030	G/TBT/N/C HN/875	Protection of human health and safety.	31 March 2012 and 31 January 2012
14) Digital display instruments used in industrial process  ICS: 19.080, 25.040.01 HS: 9030	G/TBT/N/C HN/876	To protect human health and safety.	31 March 2012 and 31 January 2012
15) Record instrument used in industrial process  ICS: 19.080, 25.040.01 HS: 9030	G/TBT/N/C HN/877	To protect human health and safety.	31 March 2012 and 31 January 2012
16) Time-of-flight (TOF) level meter used in industrial process  ICS: 19.080, 25.040.01 HS: 9030	G/TBT/N/C HN/878	To protect human health and safety.	31 March 2012 and 31 January 2012
17) Magnetostrictive liquid level meter used in industrial process  ICS: 19.080, 25.040.01 HS: 9030	G/TBT/N/C HN/879	To protect human health and safety.	31 March 2012 and 31 January 2012
18) Independent instrumental source of power used in industrial process  ICS: 19.080, 25.040.01 HS: 9030	G/TBT/N/C HN/880	To protect human health and safety.	31 March 2012 and 31 January 2012
19) Signal, isolation, converter or alarm unit for industrial-process measurement and	G/TBT/N/C HN/881	To protect human health and safety.	31 March 2012 and 31 January 2012

control ICS: 19.080□ C25.040.01 HS: 9030			
20) Differential-pressure flowmeter used in industrial process ICS: 10.080, 25.040.01 HS: 9030	G/TBT/N/C HN/882	To protect human health and safety.	31 March 2012 and 31 January 2012
21) Ultrasonic flowmeter used in industrial process ICS: 19.080, 25.040.01 HS: 9030	G/TBT/N/C HN/883	To protect human health and safety.	31 March 2012 and 31 January 2012
22) Auxiliary device of pressure instrument used in industrial process ICS: 19.080, 25.040.01 HS: 9030	G/TBT/N/C HN/884	To protect human health and safety.	31 March 2012 and 31 January 2012
23) Boilers	G/TBT/N/C HN/885	To protect human life and property safety.	31 March 2012 and 31 January 2012
24) Consumer goods ICS: 03.080.30	G/TBT/N/C HN/448/Rev. 1	To protect consumer's interests.	31 March 2012 and 31 January 2012
25) Cosmetics	G/TBT/N/C HN/886	To adapt the current needs of animal protection, guiding the safety evaluation of cosmetics raw materials.	10 May 2012 and 2 March 2012
26) Cosmetics	G/TBT/N/C HN/887	To protect human health.	27 May 2012 and 28 March 2012

Sources: WTO TBT notifications<sup>60</sup>

## X. SANITARY AND PHYTOSANITARY MEASURES

### Notifications

<i>Product</i>	<i>Notification</i>	<i>Purpose</i>	<i>Region/Country affected</i>	<i>Deadline for comments and the date of notification</i>
1) Food	G/SPS/N/CHN/522	To protect food safety, human health, pesticides and maximum residue limits (MRLs)	All trading partners.	27 March 2012 and 27 January 2012
2) Food	G/SPS/N/CHN/520	To protect human health and food safety.	All trading partners.	27 March 2012 and 27 January 2012
3) Food	G/SPS/N/CHN/521	To protect food safety and human health.	All trading partners.	27 March 2012 and 27 January 2012

Source: WTO SPS notifications<sup>61</sup>

## XI. WTO SETTLEMENT AND COMPLIANCE

### Disputes against China

#### EU, US and Japan files dispute against China

On 13 March 2012, US, EU and Japan requested consultations with China under the dispute settlement system with respect to restrictions imposed by China on export of various forms of rare earths, tungsten and molybdenum.<sup>62</sup> The consultation was circulated in accordance with the violation of XXII of GATT 1994 by

<sup>60</sup> "Notifications issued during the month of January 2012" WTO Official document G/TBT/GEN/N/ (11 May, 2012) (obtainable from TBT gateway)

<sup>61</sup> "SPS Notifications issued from 01/01/2012 to 31/03/2012" WTO Official document- SPS Information Management System (11 May 2012) (obtainable from SPS Information Management System gateway)

<sup>62</sup> "US, EU and Japan file disputes against China" WTO Official site, (5 May, 2012) at [http://www.wto.org/english/news\\_e/news12\\_e/dsrfc\\_13mar12\\_e.htm](http://www.wto.org/english/news_e/news12_e/dsrfc_13mar12_e.htm)



imposition of such restriction on exports. China not only imposes export duties but quantitative restrictions such as quotas on the export of various forms of rare earths, tungsten and molybdenum.<sup>63</sup>

China also imposes additional requirements and procedures in connection with the administration of the quantitative restrictions on various forms of rare earths, tungsten and molybdenum inclusive of fees and formalities but not limited to them. There is a restriction on right to export on the basis of prior export requirements and minimum capital requirements while certain conditions in the list of restrictions appear to treat foreign-invested entities differently from domestic entities.<sup>64</sup>

China also maintains a minimum export price system for the export of various forms of rare earths, tungsten and molybdenum and also requires the examination and approval of export contracts and export prices with respect to the administration and collection of the export duties for various forms of rare earth, tungsten and molybdenum.<sup>65</sup>

China maintains the above-mentioned restrictions through its ministries and other organizations under the State Council and various chambers of commerce and industry associations. Administration of these measures is not uniform, impartial, reasonable or transparent while also they are not published.<sup>66</sup>

#### **Appellate body report on Raw material dispute by Mexico against China**

This dispute arose with the concerns of Mexico and other third parties with four types of export restraints imposed by China on certain forms of bauxite, coke, fluorspar, magnesium, manganese, silicon carbide, silicon metal, yellow phosphorus and zinc. These four types of export restraint are export duties, export quotas, minimum export price requirements and export licensing requirements. Complainants identified 40 measures in connection to their claims.<sup>67</sup>

The said restraints on export violated China's commitments under China's Accession Protocol and China's Working Party Report while also Article VII:1(a), X:1, X:3(a) and XI:1 of the GATT 1994. The appellate body reported to China in order to make timely corrections by implementing the recommendations. On 23 March, China agreed in a reasonable period to implement such recommendations.<sup>68</sup>

#### **Director-General establishes panel for EU dispute against China's imposition of anti-dumping duties on X-Ray security inspection equipment**

EU requested consultations with China with respect to the imposition of definitive anti-dumping duties on x-ray security inspection equipment from EU on 25 July, 2011. EU claims the measure is violation of Anti-dumping Agreement related to the process of the anti-dumping investigation inclusive of the failure to provide access to relevant information and insufficient explanation of the basis for the determinations as well as the anti-dumping determination at issue while the absence of objective examination of the effect of the dumped imports on prices in the domestic market and absence of objective determination of causation. Consequent to various deliberations

---

63 "China- Measures related to the Exportation of Rare Earths, Tungsten and Molybdenum" WTO Official site, Document-G/L/982~WT/DS431/1, (5 May, 2012)

64 Id.

65 Id.

66 Id.

67 "Appellate body issues reports on raw materials disputes" WTO Official site, (5 May, 2012) at

[http://www.wto.org/english/news\\_e/news12\\_e/394\\_395\\_398abr\\_e.htm](http://www.wto.org/english/news_e/news12_e/394_395_398abr_e.htm)

68 Id.

and third party reservations by countries, EU requested the Director-General to determine the composition of the panel. Panel was composed on 12 March 2012.<sup>69</sup>

**EU to implement DSB recommendation on its anti-dumping measures on certain footwear imports from China**

On 23 March, EU accepted to implement recommendation by DSB on the violation of EU's WTO obligation by imposition of certain anti-dumping measure on the imports of certain leather footwear from China.<sup>70</sup>

**China as a third party in WTO disputes**

**Guatemala dispute against Dominican Republic on safeguard measures on imports of polypropylene bags and tubular fabric**

The dispute involves definitive duties imposed by the Dominican Republic on imports of polypropylene bags and tubular fabric as well as underlying investigation that led to the adoption of the duties and certain alleged procedural omissions. The panel for the resolution of dispute found many inconsistencies while rejected certain arguments by Guatemala. DSB on 22 February 2012 adopted the panel report. Dominican Republic consented to implement the recommendations of DSB and rulings in a manner that respects its WTO obligation.<sup>71</sup>

**EU dispute against Canada's measures relating to the domestic content requirements in the feed in tariff program**

EU complained that the measures relating to the domestic content requirements in the feed-in-tariff program are inconsistent with the Canada's obligations under Article III:4 and III:5 of the GATT because they apparently are laws, regulations or requirements affecting the internal sale, offering of sale, purchase, transportation, distribution or the use of equipment of renewable energy generation facilities that accord less favorable treatment to imported equipment than that accorded to the products originating in Ontario.

EU claimed that the measures appear to be trade related investment measure and hence inconsistent with Article 2.1 of the TRIMs Agreement as they violate Article III of the GATT 1994. China acquired third party right when DSB established a panel on 20 January 2012.<sup>72</sup>

**The Republic of Korea's dispute with US on anti-dumping measures on corrosion-resistant carbon steel flat products from Korea**

This dispute involves more specifically concerns regarding several US laws, regulations, administrative proceedings and practices, past as well as on-going, related to the use of "zeroing" methodology in anti-dumping determinations concerning the products in dispute. On 22 February 2012, DSB agreed to establish a panel and China reserved its right as a third-party in this dispute.<sup>73</sup>

---

69 "China-Definitive Anti-Dumping Duties on X-Ray Security Inspection Equipment from the European Union" WTO Official site, Dispute-D425, (5 May, 2012) at [http://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds425\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds425_e.htm)

70 "European Union- Anti-Dumping Measures on Certain Footwear from China" WTO Official website, Dispute DS405, (5 May, 2012), at [http://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds405\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds405_e.htm)

71 "Dominican Republic- Safeguard Measures on imports of Polypropylene Bags and Tubular Fabric" WTO Official website, Dispute DS416, at [http://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds416\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds416_e.htm)

72 "Canada-Measure Relating to the Feed-in Tariff Program" WTO Official site, Dispute DS426, (5 May, 2012), at [http://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds426\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds426_e.htm)

73 "United States- Anti-Dumping measures on corrosion-resistant carbon steel flat products from Korea" WTO Official site, Dispute DS420, (30 March, 2012) at [http://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds420\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds420_e.htm)

## **XII. INTELLECTUAL PROPERTY RIGHTS**

### ***An Overview***

As China moves from a developing country status to a developed country status it will be noted that IPR protection stringency levels will rise. IPR is both beneficial and detrimental to trade depending upon the level of economic development in a country and China is certainly going through a transition. Though significant trade in China rely on the production and trade of unlicensed and imitation goods, the transition will underpin industrial upgrading and building of a competitive edge in the world market. As it will also discourage imitations of inferior foodstuffs and shoddy appliances in order raise the bar for reliability and endurance.

This is evident when China is endeavoring to push annual patent filings to 2 million by 2015 as stricter protection of intellectual property rights will encourage domestically targeted research and development. While iPhone may remain out of reach to an average Chinese consumer, new technology empowered by local firms targeting specific Chinese consumers' needs may become an inevitable alternative.

In 2012, China has aimed to improve IPR evaluation mechanism in order to make IPR examination and management work appropriately so as to raise the value of IPR. This annual plan primarily aims at promulgating IPR protection policies for strategic emerging industries such as energy saving and environmental protection, encouraging the commercializing of IPR achievements as well as raising infringement cost and combating illegal actions in order to improve the social environment for IPR such as the cultivation of a cultural atmosphere of respecting knowledge, advocating innovation and abiding by laws.<sup>74</sup>

Infringement of IPR and counterfeiting has been effectively checked in some regions and industries in China due to the special action deployed by the State Intellectual Property Office (SIPO) to crack down upon IPR violations as well as the strengthened administrative and criminal enforcement activities by all regional departments. The emphasis on innovation based economy and growing public awareness has given rise to soaring number of lawsuits involving IPR. Last year itself 66,000 IPR cases went to litigation; up by 37.7 percent from 2010<sup>75</sup>.

China has turned its focus on expediting and cultivating IPR-related service industry to satisfy social needs. According to the Commissioner of China's State Intellectual Property Office (SIPO) Tian Lipu, China will improve patent information public service system and optimize IPR service framework in 2012. A guideline on fastening IPR service industry will be released in order to promote patent services inclusive of information retrieval, analysis and early warning, trading, operating, assets evaluation and value analysis and a batch of specialized service agencies will also be set up to achieve the goal.

He further said that China needs to build a public service framework featured by genuine information, wide coverage, high quality and satisfying feedback to provide professional and internationalized IPR services while also in the next stage the country will explore options in order to establish a statistic and monitor system in this regard.<sup>76</sup>

### ***A permanent leading agency constituted to maintain efforts against IPR infringements***

---

74 "China issues annual plan to enhance IPR protection" (19 April 2012) more available at, [http://www.chinaipr.gov.cn/newsarticle/news/government/201204/1288576\\_1.html](http://www.chinaipr.gov.cn/newsarticle/news/government/201204/1288576_1.html)

75 "IPR: Number of Lawsuits Soars" IPR Protection in China", (10 May, 2012) at [http://www.chinaipr.gov.cn/newsarticle/news/government/201203/1285380\\_1.html%28stats](http://www.chinaipr.gov.cn/newsarticle/news/government/201203/1285380_1.html%28stats)

76 "China to accelerate the development of IPR service industry" IPR Protection in China Official site, (10 May 2012), at [http://www.chinaipr.gov.cn/newsarticle/news/government/201201/1274821\\_1.html](http://www.chinaipr.gov.cn/newsarticle/news/government/201201/1274821_1.html)

An agency has been constituted which shall lead efforts against IPR violations and counterfeiting. The agency is constituted by 29 member departments and chaired by Vice Premier Wang Qishan. The agency is permanently based in the Ministry of Commerce. Minister of MOC said that the daily task of the agency in MOC is to report to Vice Premier Wang Qishan and all the 29 members the priorities being addressed and the landscape of enforcement activities.

As highlighted that the priority in the first quarter was to investigate agricultural materials, building materials, auto parts, to conduct patent examination to combat IPR infringements related to pre-installed software, online shopping and trade fairs also to take key actions towards special commercials in agricultural market.<sup>77</sup>

### **Patent Analysis Project**

Patents essentially constitute a very important source of information about the competition in the market. Patent is a main tool for technological and business intelligence in an economy. Knowledge of enforced patents is very important before venturing to develop any new product.

China through the Patent Analysis Project in 2010-2011 initiated by SIPO that promotes implementation and prioritization of patent analysis. In the first quarter of 2012, SIPO unveiled an Industry Patent Analysis Report to facilitate innovation and marketing by domestic companies. This report serves to encourage companies for acquiring a range of patent information from industry conferences and publications in order to understand their markets and use it for further research.<sup>78</sup>

This project was started in 2010 with a focus on ten fields ranging from high-tech industries and emerging strategic science to traditional sectors. However, this year's research fields include machinery used in agriculture and packaging, power devices, short-distance communications, cooking oil, high-performance fibers, LCD technology, rubber, smart TVs and auto safety.

### **Revised measures for compulsory licensing of Patent Implementation will come into force**

The newly revised measures for compulsory licensing of patent implementation has been approved by SIPO on 20 March 2012 and will so come into effect on 1 Mat 2012. The revised measures in the fields involving the public interest such as medicine, compulsory licensing will be able to bring more affordable medicine and benefit people.

Original measures for compulsory licensing of patent implementation was promulgated in 2003 by SIPO and in its revision this time, the SIPO integrated version 2003 and the measures for compulsory license on Patent Implementation concerning Public Health Problems as promulgated in 2005 were reformed into a draft for new measures.

When emergent or unusual situations occur in China based on the measures, competent authorities of the State Council can advise the SIPO to give compulsory licensing to the designated qualified entities in accordance with the provisions of Article 49 of the Patent Law.

---

<sup>77</sup> "MOFCOM minister: Infringements in online marketplace being targeted in Q1", IPR Protection in China Official site, (10 May 2012), at [http://www.chinaipr.gov.cn/newsarticle/news/government/201203/1282663\\_1.html](http://www.chinaipr.gov.cn/newsarticle/news/government/201203/1282663_1.html)

<sup>78</sup> "SIPO releases patent analysis as aid to innovation by domestic companies" IPR in China Official site, (20 May, 2012), at [http://www.chinaipr.gov.cn/newsarticle/news/government/201204/1289653\\_1.html](http://www.chinaipr.gov.cn/newsarticle/news/government/201204/1289653_1.html)

While for the purposes of public health under Article 50 of the Patent Law, qualified entities can request for compulsory licensing to manufacture patented drugs and export them to the least developed countries or regions and the developing or developed countries that express their expectation to import such medicine through informing WTO in accordance with relevant international treaty.

Although China has upgraded laws on applying for medicine compulsory licensing since the year 2005, Chinese pharmaceutical manufactures had never filed any applications for compulsory licensing on generic drugs. But due to low profits in manufacturing generic drugs and the inactivity of governmental departments in promoting compulsory licensing are the main reasons leading to ineffective implementation of drug compulsory licensing in China.

Prior to a week when the Patent Office of India issued the first compulsory licensing to a generic drug manufacturer, ending in which only German pharmaceutical company Bayer sorafenib tosylate used for kidney cancer and liver cancer in India. Thus, the price for sorafenib tosylate will be reduced from over US \$ 5,500 per month to US \$ 175 each month in India with a decrease of nearly 97 percent.

In China the public has been expecting compulsory licensing related to drugs for hepatitis B, tuberculosis and AIDS. In 2008, public interest organization Beijing Yirenping Center joined hands with 1,843 HBV carriers and HIV-infected persons to appeal to the Ministry of Commerce to issue compulsory licensing for Lamivudine. In July 2011, Shanghai Aurisco Pharmaceutical Limited planned to organize domestic non-governmental organizations to apply for patent compulsory licensing for Tenofovir Disoproxil used for AIDS.<sup>79</sup>

#### **Sino-German Patent Prosecution Highway Pilot Program**

A joint statement on Patent Prosecution Highway (PPH) by China's State Intellectual Property Office (SIPO) and German Patent and Trademark Office (DPMA), the Sino-German PPH pilot program was launched in January 23, 2012.

The PPH was established to enable an applicant whose at least one claim is patentable in the office of first filing (OFF) to have the corresponding application filed in the Office of Second Filing (OSF) advanced out of turn for examination while at the same time allowing the OSF to exploit the work results of the OFF.

The Sino-German PPH pilot program will play a positive role in promoting the implementation of China's intellectual property strategy and supporting such market entities as enterprises to obtain patent rights as early as evitable.<sup>80</sup>

#### **New Copyright law for China to promote enforcement mechanism of copyright administrative management system**

China has taken the initiative to modify its copyright law. The new law will aim at strengthening copyright protection in balance with promotion of trade. It will endeavor to create consistency with international rules and international practice of copyrights while also to create a double-track copyright protection system which is both administratively and judicially protected. The concise draft explains that the proposed draft newly regulates enforcement means of copyright administrative management department which emphasize the right to seal up and seize illegal goods.

---

79 "Newly revised measures for compulsory licensing of patent implementation to come into force" IPR Protection Official site, (10 May, 2012) at [http://www.chinaipr.gov.cn/newsarticle/news/government/201203/1285090\\_1.html](http://www.chinaipr.gov.cn/newsarticle/news/government/201203/1285090_1.html)

80 "Sino-German Patent Prosecution Highway Pilot Program Launched, IPR Protection Official site, (10 May 2012) at [http://www.chinaipr.gov.cn/newsarticle/news/government/201202/1278775\\_1.html](http://www.chinaipr.gov.cn/newsarticle/news/government/201202/1278775_1.html)

To fight against infringement and piracy actions in order to better China's copyright administrative protection system, the proposed draft use other IP laws (Article 55 in Trademark Law and Article 64 in Patent Law) as a source of reference and newly regulates enforcement ways for copyright administrative management sectors.<sup>81</sup>

### **Miscellaneous expenses of small and micro enterprises exempted in CPCC**

China's National Copyright Administration reported that eight items of expenses such as registration fee has been exempted from 1 January 2012 to 31 December 2014 in Copyright Protection Center of China (CPCC) for small and micro-sized enterprises to register their copyright for computer software products.

It is estimated that the exemption thus will amount to 10 million RMB for the respective years it is to be initiated. Copyright registration for computer software have rose rapidly during the 11<sup>th</sup> year period from more than 20 thousand in 2006 to 98 thousand in 2010 and even totally over 100 thousand in 2011. After this measure of exemption of fee, registration is expected to take an immense effect.<sup>82</sup>

### **China a global leader in trademark registration**

By the end of the first quarter, China's trademark applications and grants reach 10,000,346 and 6,892,999 making China as a global leader according to the State Administration for Industry and Commerce (SAIC). Also 288,900 filings were submitted in the first quarter with an increase by 7.7 percent on a year-on-year basis.

In order to promote high quality services to mark applicants, the SAIC has taken a series of measures to increase the service awareness of its staff and modernize its processing systems

In addition it has shortened the review period from 36 months in 2008 to within 10 months in order to improve its trademark review mechanism following international standards. These measures and the increasing trademark applications is considered as a milestone in China's trademark development history, in addition a sign off further implementation of trademark strategies and the enhanced protection of trademark proprietary rights. As both the government and enterprises have knowledge of the fact that implementation of trademark strategies and cultivation of self-owned brands will greatly promote healthy economic development.<sup>83</sup>

### **China's customs promotes special rectification campaign in important ports and transport channels**

General Administration of Customs provided information that since the beginning of 2012, the Customs in China have encourages the construction of IP protection long-term mechanism and consequently launched a one-year-long special rectification campaign in important ports and transport channels so as to maintain import and export order and to protect consumers' health and safety. In the first quarter 1,31,164 batches of infringing goods for import and export were seized of 87 million RMB value. Many regional customs seized batches of infringing goods, harmful to society and economy.<sup>84</sup>

---

81 "Administrative departments will have rights to seize infringing goods" IPR Protection in China, (10 May 2012) at [http://www.chinaipr.gov.cn/newsarticle/news/government/201204/1287173\\_1.html](http://www.chinaipr.gov.cn/newsarticle/news/government/201204/1287173_1.html)

82 "Miscellaneous expenses to be exempted in CPCC for small and micro enterprises" IPR Protection Official site, (10 May 2012) at [http://www.chinaipr.gov.cn/newsarticle/news/government/201201/1276091\\_1.html](http://www.chinaipr.gov.cn/newsarticle/news/government/201201/1276091_1.html)

83 "Trademark application in China breaking 10mln" IPR Protection in China Official site, (10 May, 2012) at [http://www.chinaipr.gov.cn/newsarticle/news/government/201204/1288848\\_1.html](http://www.chinaipr.gov.cn/newsarticle/news/government/201204/1288848_1.html)

84 "China's Customs launched special rectification campaign" IPR Protection in China, (10 May 2012) at [http://www.chinaipr.gov.cn/newsarticle/news/government/201203/1286707\\_1.html](http://www.chinaipr.gov.cn/newsarticle/news/government/201203/1286707_1.html)

### **Protection of new plant varieties celebrate 15<sup>th</sup> anniversary of the promulgation of the ordinance**

Protection of new plant varieties is the most important intellectual property right in agricultural sector of China. The Ministry of Agriculture, on 21 March 2012, said that the promulgated protection of new plant varieties has worked efficiently in stimulating plant breeding innovation while promoting the core competitiveness of China's agriculture and sustaining the development of modern agriculture.

Protection on agricultural plants covers a broader scheme of protections to providing a fair competition platform for more and more breeders. The ministry of Agriculture has also in tune released 8 batches of plant variety protection lists incorporating 80 agricultural plant genera and species.

Many emerging seed enterprises with indigenous intellectual property are realizing the integration of breeding, propagating and distributing. Licensed varieties of major staple crops such as rice, corn and wheat are applied broadly. According to the statistics based on the varieties of major crops covering a demonstration area of at least 100,000 mu, licensed varieties were applied to 21.6 percent of rice planting, 49.3 percent of wheat and 55.9 percent of corn. Protection of new plant varieties is an important contribution to food safety.

The director of the Seed Administration Department under the Ministry of Agriculture Zhang Yanqiu proposed to create a fair social atmosphere so as to improve the core competitiveness of seed industry by focusing on the cultivation protection, utilization and administration of new plant varieties as well as establishing systems of rules and regulations, providing technical support and management service.<sup>85</sup>

## **XIII. TRADE POLICY BY SECTOR: AGRICULTURE**

### **Trade in Agriculture**

China's import-export for the first two month of 2012 totaled US \$ 25.24 billion with a year-on-year growth of 17.2 percent. China's agricultural export was US \$ 9.23 billion and its agricultural import was US \$ 16.01 billion which grew by 7.5 percent and 23.6 percent respectively. China suffers a trade deficit of US \$ 6.78 billion in agriculture, which rose by 55.2 percent on a year-on-year.<sup>86</sup>

### **EU and China Joint Workshop on Traceability issues**

MOA department of International Cooperation and Delegation of the EU to China held a joint workshop on Traceability of Agriculture Products in Beijing from March 28 to 29. Both the sides shared practices and cases of the establishment of agri-product traceability system and exchanged information about government supervision of animal products, plant products and processed agri-product as well as quality control of businesses.<sup>87</sup>

As EU plays a leading role in food labeling and traceability, also worldwide there are many practices of EU that could be drawn on by other countries in identification, early warning, restriction, recall and management.<sup>88</sup> China shared its experience on the enforcement of a series of laws and regulations to ensure food safety. These include Food Safety Law of the China and Law of China on Quality and Safety of Agricultural Products. Measures for

---

85 "*Protection of new plant varieties works efficiently*" IPR Protection in China official site, (10 May 2012) at [http://www.chinaipr.gov.cn/newsarticle/news/government/201203/1285979\\_1.html](http://www.chinaipr.gov.cn/newsarticle/news/government/201203/1285979_1.html)

86 "*China's Agricultural Export and Import- January and February of 2012*" Ministry of Agriculture PRC Official site, (5 May, 2012) at [http://english.agri.gov.cn/sa/ei/201205/t20120504\\_4437.htm](http://english.agri.gov.cn/sa/ei/201205/t20120504_4437.htm)

87 "*China, EU hold Workshop on Traceability of Agricultural Products*" Ministry of Agriculture PRC Official site, (5 May, 2012) at [http://english.agri.gov.cn/ga/news/201203/t20120331\\_4246.htm](http://english.agri.gov.cn/ga/news/201203/t20120331_4246.htm)

88 Id.

Management of Animal Immunization Identification promulgated by MOA and Chinese Barcode Promotion Project initiated by AQSIQ also laid down a firm foundation to improve national food safety traceability system.<sup>89</sup>

In some of the cities in China, pilot projects are in progress to overcome the difficulty of tracing the source of meat and vegetables.<sup>90</sup> This workshop enabled both the sides to exchange latest developments about safety management and traceability system of agricultural products, explore potentials for cooperation and carry forward a development of both sides in relevant areas of traceability of agricultural products.<sup>91</sup>

### **Draft Grain Law**

According to a draft law released by the State Council, research, selling, importing and exporting of transgenic grain seeds should comply with state regulations and without approval of the said authorities no individual or an institution can apply transgenic technologies to principle grain cultivars. This law is to control the practice of inserting into an organism DNA that is not normally present which is known as transgenics.

This draft aims to ensure grain supply and security by stabilizing grain output and intensifying supervision over the market. It also includes stipulations concerning the market deployment of grain resources and the safeguarding of grain production, circulation and quality. It could hinder the aim of China to achieve grain production capacity of more than 540 million tones within five years, 8 percent more than the annual target of the 2006-2010 period according to its 12<sup>th</sup> five-year plan (2011-2015) for National Economic and Social Development in addition to the exports of the same.<sup>92</sup>

### **US-China Agricultural Cooperation**

US-China symposium held in Des Moines, Iowa State in the US made arrangements for China-US agricultural cooperation in next five years while identifying eight key areas of cooperation such as food security, food safety, sustainable agriculture, agricultural science and technology, agri-product markets and agricultural trade as well as major cooperation projects. Both the sides agreed to enhance communication and coordination on key international agricultural issues within bilateral and multilateral framework, facilitate agricultural trade and improve mechanisms for China-US agricultural cooperation.<sup>93</sup>

### **South Africa-China Joint Working Group on Agriculture**

The sixth China-South Africa Joint Working Group on Agriculture was held in Hainan in the month of February. Whereby a consensus was reached between both sides with respect to students from South Africa for Agricultural Studies will be provided scholarship in China, training courses on aquaculture will continue in China, both the sides shall alternately dispatch study groups on agricultural machinery, agricultural tourism, processing and storage of agricultural products. While the second phase of helping South Africa to build the aquaculture technology demonstration center is underway. <sup>94</sup>

---

89 Id.

90 Id.

91 Id.

92 “Draft Grain law limits genetic engineering” Ministry of Agriculture PRC Official site, (5 May, 2012) at

[http://english.agri.gov.cn/ga/news/201202/t20120223\\_4079.htm](http://english.agri.gov.cn/ga/news/201202/t20120223_4079.htm)

93 “Sino-US Plan of Strategic Cooperation in Agriculture” Ministry of Agriculture PRC Official site, (5 May 2012) at

[http://english.agri.gov.cn/ga/news/201202/t20120222\\_4076.htm](http://english.agri.gov.cn/ga/news/201202/t20120222_4076.htm)

94 “The 6th meeting of China-South Africa Joint Working Group on Agriculture” Ministry of Agriculture PRC Official site, (5 May, 2012), at

[http://english.agri.gov.cn/ga/news/201202/t20120216\\_4069.htm](http://english.agri.gov.cn/ga/news/201202/t20120216_4069.htm)



#### **XIV. TRADE POLICY BY SECTOR: MANUFACTURING**

The comprehensive development and optimized manufacturing laid the foundation for China to be a strong country of manufacturing. Manufacturing sector has an important basis for the economic and social development which also embodies international competitiveness of China.<sup>95</sup>

##### **Industrial value-added**

Industrial value-added output measures the final output value of industrial production or the value of gross industrial output minus intermediate input, such as raw materials and labor costs. China's industrial value-added output grew 11.6 percent year-on-year in the first quarter. The quarterly growth rose from 11.4 in the first two months to 11.9 in the month of March. In month-on-month basis, industrial value-added output was 1.22 percent higher than a month ago.

China's economy has improved from the first two months of this quarter and has begun to stabilize and recover in March as it expanded year-on-year to 8.1 percent in the first quarter of 2012, though the slowest in 11 quarters. Industrial value-added output for the heavy industry sector rose to 11 percent as compared to previous year in the first quarter while that of the light industry sector rose to 13.2 percent. All of the 41 industrial sectors of China posted gains in the first quarter<sup>96</sup>

##### **Industrial profits**

Industrial profits of enterprises above designated size decreased 1.3 percent year-on-year in the first quarter to 1044.9 billion RMB. In the month of March, the industrial profits of enterprises above designated size grew 4.5 percent year-to-year to 438.9 billion RMB.<sup>97</sup>

State-owned and State-holding industrial enterprises above designated size decreased 12.4 percent to 317.2 billion RMB. Profits of collective-owned enterprises increased 16.8 percent to 17.8 billion RMB while the profits of joint-stock enterprises increased 0.4 percent to 595.9 billion RMB.<sup>98</sup> Foreign funded enterprises and enterprises funded from Hong Kong, Macao and Taiwan gained 251.5 billion RMB at a decrease of 12.6 percent year-on-year. Private enterprises gained 326.4 billion RMB at an increase of 22.4 year-on-year basis.<sup>99</sup>

Petroleum and natural gas extraction industry grew by 10.6 percent, agro-food processing industry by 17.7 percent, manufacture of automobile industry by 6.3 percent, production and supply of electric power and heat power industry by 28.3 percent, raw chemical materials and chemical products decreased by 23.1 percent, ferrous metal mining and processing decreased 83.5 percent, manufacturing of general equipment decreased by 0.5 percent, manufacturing of electrical machinery and equipment decreased 2.4 percent, communication equipment, computers and other electric equipment production decreased by 12.2 percent while processing of petroleum, coking, processing of nuclear fuel had a net loss from profits year-on-year basis.<sup>100</sup>

---

95 "Manufacturing Industry in China" Asia Trade Hub site, (5 May, 2012) at <http://www.asiatraderhub.com/china/manu.asp>

96 "China's industrial value-added output up 11.6 pct" Xinhua, (5 May, 2012), at [http://news.xinhuanet.com/english/china/2012-04/13/c\\_131524193.html](http://news.xinhuanet.com/english/china/2012-04/13/c_131524193.html)

97 "Industrial Profits Decreased from January to March" National Bureau of Statistics of China, (7 May, 2012) at [http://www.stats.gov.cn/english/pressrelease/t20120428\\_402802038.htm](http://www.stats.gov.cn/english/pressrelease/t20120428_402802038.htm)

98 Id.

99 Id.

100 Id.

Revenue of principal business of enterprises above designated size increased 14.1 percent year-on-year to 19,782.3 billion RMB. The cost of main business revenue for per hundred RMB stood at 84.93 RMB with a margin of 5.28 percent.<sup>101</sup> While revenue from state-owned and state holding industrial enterprises rose by 7.6 percent by 5,616.4 billion RMB, the cost of revenue from these industrial enterprises stood 82.18 RMB per hundred RMB with a margin 5.65 percent.<sup>102</sup>

Foreign funded enterprises and those enterprises funded by Hong Kong, Macao and Taiwan increased by 7.2 percent to 5,019.1 billion RMB, as the costs of revenue stood at 86.43 RMB per hundred RMB with a margin 5.01 percent.<sup>103</sup> By the end of the first quarter, total volume of receivable accounts for industrial enterprises grew by 17.2 percent year-on-year by 7,119.9 billion RMB. The total value of finished products for industrial enterprises grew by 16.4 percent year-on-year to 2,783.0 billion RMB.<sup>104</sup>

## **XV. TRADE POLICY BY SECTOR: SERVICES**

Service sector of China has been moving towards growth as new business sub-index expanded to a continuous period of 40 months. HSBC Services Purchasing Managers Index (PMI) stood at 53.3 in March with a smaller variation of 53.9 in February. China's official non-manufacturing PMI stood at 58 in March up from 57.3 in February.<sup>105</sup>

There was a firmer client demand and improvement in the overall business conditions as service providers were able to transfer higher input costs to customers through increased output charges. However, according to HSBC's Hong Kong chief economist for China Qu Hongbin, the overall economic growth has been losing on export order, industrial production or employment. To rectify this, more easing measures are required from the Government as inflationary pressures will remain relatively contained in the coming months.<sup>106</sup>

## **XVI. TRADE POLICY SECTOR- TOURISM**

China gained 646.8 billion RMB (US \$ 102.7 billion) revenue from tourism during the first quarter of 2012. The tourism industry has been a source of creating domestic demand and generating jobs. Due to rise in domestic living standards and the country's unremitting efforts to open wider connections to the outside world, tourism sector is said to provide fresh opportunities for development. Domestic tourists made 875 million trips from January to March up by 15.1 percent year-on-year. Meanwhile, over 400,000 mainland travelers visited Taiwan during the first quarter, up by 53 percent year-on-year. Currently, 41 mainland cities offer direct flights to Taiwan.<sup>107</sup>

---

101 Id.

102 Id.

103 Id.

104 Id.

105 "China services sector expands", IRISHTIMES site, (5 Apr. 2012), <http://www.irishtimes.com/newspaper/breaking/2012/0405/breaking5.html>

106 Id.

107 "China's Q1 tourism revenues rise 23 %" CHINADAILY site, (10 May, 2012) at [http://www.chinadaily.com.cn/business/2012-04/14/content\\_15049336.htm](http://www.chinadaily.com.cn/business/2012-04/14/content_15049336.htm)