IV. TRADE POLICIES BY SECTOR

(1) AGRICULTURE

(i) Overview

1. Despite strong growth in manufacturing and services, agriculture is still an important part of China's economy: in 2010, it contributed 10% to GDP and represented about 37% of all employment. Although the number of people employed in agriculture has been falling while output has been increasing, indicating rising productivity, the difference between agriculture's contribution to GDP and to employment also indicates that productivity remains well below that found in other sectors and helps to explain the income disparity between rural and urban areas.

2. In 2010, imports of agricultural goods (WTO definition) into China were worth about US$67 billion (about 5% of total imports of goods) and exports about US$36 billion (about 2% of total exports of goods).[1] China is the biggest producer in the world of several major agricultural products, including rice, cotton, wheat, and potatoes.[2]

(a) Production

3. The total value of production of agriculture in China has grown strongly over the past few years; it reached ¥5,777 billion in 2010, with an average annual increase of over 12%. This is a result of both rising prices and increasing quantities of production for most of the main products. In terms of the value of production, vegetables are the main product (20% of the output value), followed by swine (16%), fowl (10%), rice (8%), and maize (5%) (Table IV.1). Production is broadly based with the top ten products making up just over half of the gross value of all agriculture production.

4. The increase in production quantities has varied substantially from one product to another. Production of milk nearly tripled from 2002 to 2008 and then stabilized at nearly 36 million tonnes, and production of apples, poultry meat, maize, and wheat also grew strongly. However, production volumes of some major products have increased by much smaller amounts and production of beans declined over the same period (Table IV.2).[3] Data on yields indicate that, for the main crops, most of the increase in production has come from increased area harvested, as yields (in kg/ha) have not increased by the same amount (Table IV.3).

5. Practically all of China's 200 million farms are small family farms with an average farm size of only 0.6 ha. The small size severely restricts the amount of capital that can be invested in machinery and other labour saving investments. Until recently, the low cost of labour meant that this was not always a restriction on production. Small farm sizes and high levels of labour availability also meant that production grew most strongly for labour-intensive crops such as fruits and vegetables. However, labour shortages and rising labour costs may be becoming a constraint on production.[4]

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[1] UNSD Comtrade online database. Viewed at: http://comtrade.un.org/ [October 2011].
[2] FAOStat online database. Viewed at: http://faostat.fao.org/ [October 2011].
[3] FAOStat online database. Viewed at: http://faostat.fao.org/ [October 2011]; and OECD Producer and Consumer Support Estimates database. Viewed at: http://www.oecd.org/document/59/0,3746,en_2649_33797_39551355_1_1_1_1,00.html [October 2011].
[4] Zhang, Yang, and Wang (2010).

Table IV.1
Value of output for agriculture and selected products, 2002-10
(¥ billion)

	2002	2003	2004	2005	2006	2007	2008	2009	2010
Total output value	2,339	2,441	3,031	3,292	3,361	4,078	4,863	5,025	5,777
Vegetable	403	442	491	563	622	742	857	947	1,157
Swine	406	444	617	644	505	813	1,096	906	920
Fowl	256	276	328	373	377	420	488	517	564
Rice	209	194	297	298	278	329	363	367	447
Fruit and nut	149	157	177	209	230	280	318	352	439
Maize	137	145	196	199	209	237	262	249	303
Wheat	105	106	142	162	161	183	198	235	235
Live cattle	83	95	109	125	136	136	174	183	200
Oil-bearing crops	68	79	100	96	87	123	156	138	162
Cotton	53	79	88	88	102	125	110	102	160
Sheep and goats	48	56	65	74	56	90	108	118	140
Soybean	43	50	63	65	53	49	62	57	61

Note: 1. Total output value corresponds to data for "Agriculture" and "Animal husbandry" from the National Statistics Bureau.
2. Data on "Fruit and nut" in 2009 and 2010 do not include nuts.
3. In 2009, data for agriculture and forestry were adjusted according to the new Products Catalogue for Statistics.

Source: Data from the National Statistics Bureau.

Table IV.2
Volume of agricultural production for selected products, 2002-10
(Million tonnes)

	2002	2003	2004	2005	2006	2007	2008	2009	2010
Pork	41.2	42.4	43.4	45.6	46.5	42.9	46.2	48.9	50.7
Poultry meat	12.0	12.4	12.6	13.4	13.6	14.5	15.3	15.9	16.6
Rice	174.5	160.7	179.1	180.6	181.7	186.0	191.9	195.1	195.8
Apples	19.2	21.1	23.7	24.0	26.1	27.9	29.8	31.7	33.3
Maize	121.3	115.8	130.3	139.4	151.6	152.3	165.9	164.0	177.2
Wheat	90.3	86.5	92.0	97.4	108.5	109.3	112.5	115.1	115.2
Beef	5.2	5.4	5.6	5.7	5.8	6.1	6.1	6.4	6.5
Rapeseed	10.6	11.4	13.2	13.1	11.0	10.6	12.1	13.7	13.1
Cotton	4.9	4.9	6.3	5.7	7.5	7.6	7.5	6.4	6.0
Mutton	2.8	3.1	3.3	3.5	3.6	3.8	3.8	3.9	4.0
Beans	22.4	21.3	22.3	21.6	20.0	17.2	20.4	19.3	19.0
Sugar crops	102.9	96.4	95.7	94.5	104.6	121.9	134.2	122.8	120.1
Milk	13.0	17.5	22.6	27.5	31.9	35.3	35.6	35.2	35.8

Source: Data from the National Statistics Bureau.

Table IV.3
Yields of agricultural products for selected products, 2002-10
(Kg/ha)

	2002	2003	2004	2005	2006	2007	2008	2009	2010
Rice	6,189	6,061	6,311	6,260	6,280	6,433	6,563	6,585	6,553
Wheat	3,777	3,932	4,252	4,275	4,593	4,608	4,762	4,739	4,748
Corn	4,924	4,813	5,120	5,287	5,326	5,167	5,556	5,258	5,454
Cotton	1,175	951	1,111	1,129	1,295	1,286	1,302	1,289	1,229
Soybean	1,893	1,653	1,815	1,705	1,620	1,454	1,703	1,630	1,771
Rapeseed	1,477	1,582	1,813	1,793	1,833	1,874	1,835	1,877	1,775
Sugarcane	64,663	64,023	65,199	63,970	70,450	71,228	71,210	68,093	65,700

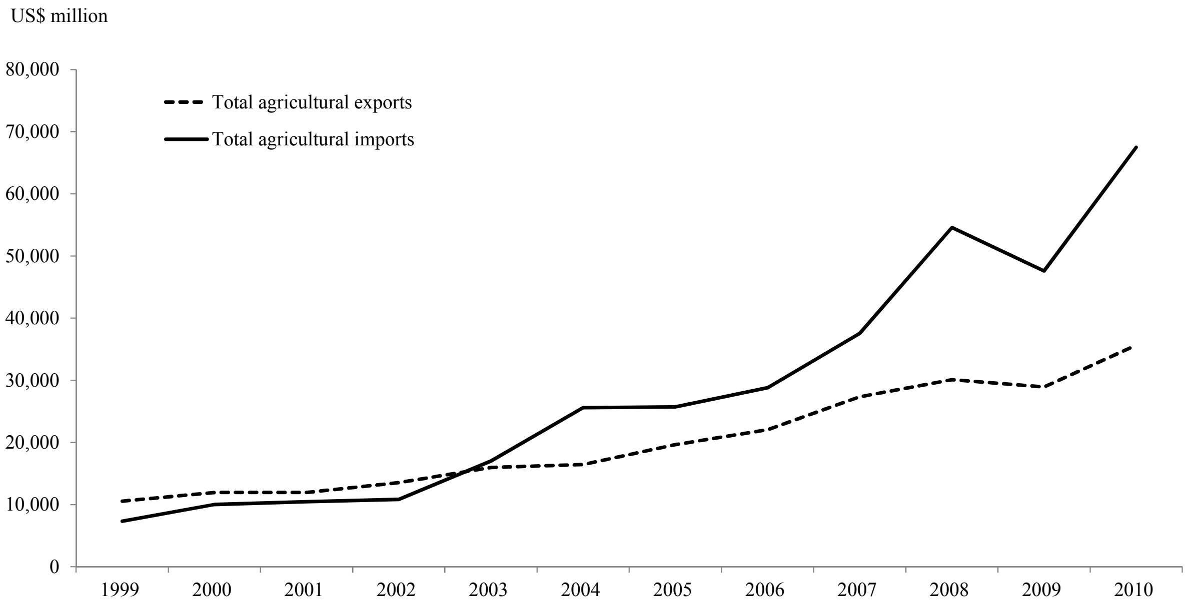
Source: Data from the National Statistics Bureau.

(b) Trade

6. Over the past ten years, China's imports and exports of agriculture products (WTO definition) have grown considerably. The fall in the value of trade in 2009 compared with 2008 was more the result of the drop in commodity prices, as import volumes continued to rise in this period. Furthermore, in value terms, exports and imports resumed their growth 2010.

7. In value terms, imports have increased by an average of 23% per year since 2001, reaching US$67 billion in 2010 (Chart IV.1). This rate of growth is only slightly faster than for imports of goods as a whole, and agriculture still represents less than 5% of total imports of goods. The main source of imports is the United States, followed by Brazil, Argentina, and Malaysia. The rate of growth in imports varies considerably from one product to another. For the main imported products, growth was particularly strong for cotton, soybean oil, malt extracts, and palm oil (Table IV.4).

Chart IV.1
Agriculture exports and imports, 1999-2010



Source: UNSD Comtrade, http://www.comtrade.un.org.

8. For over a decade soybeans have been by far the most important import, making up over one third of all agriculture imports, followed by cotton, palm oil and wool. The United States is the main supplier of soybeans, followed by Brazil and Argentina. The United States is also the main supplier of cotton, followed by India and Uzbekistan. Malaysia is the main supplier of palm oil, followed by Indonesia.

9. Exports have also increased considerably over the past ten years, nearly tripling to US$36 billion in 2010 (Table IV.5). The structure of exports changed considerably during this time as exports of some products, such as vegetables, fruits and food preparations increased at much faster rates than more traditional exports, such as rice and raw silk. The main destination for exports of agricultural products is Japan, followed by the United States, and Hong Kong, China.

Table IV.4
Imports of selected agricultural products, 2001-10
(US$ million, '000 tonnes, and %)

HS Code	Commodity description		2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
1201	Soybeans	US$ million	2,810	2,483	5,417	6,979	7,778	7,489	11,473	21,815	18,787	25,093
		'000 tonnes	13,939	11,314	20,741	20,230	26,590	28,237	30,817	37,436	42,552	54,798
5201	Cotton	US$ million	71	180	1,163	3,166	3,191	4,867	3,477	3,491	2,114	5,655
		'000 tonnes	56	171	870	1,901	2,568	3,641	2,458	2,110	1,526	2,836
1511	Palm oil	US$ million	425	849	1,443	1,868	1,782	2,274	3,683	5,213	4,219	4,711
		'000 tonnes	1,517	2,221	3,325	3,857	4,330	5,069	5,095	5,282	6,441	5,696
5101	Wool	US$ million	790	815	753	1,077	1,210	1,260	1,790	1,686	1,461	1,955
		'000 tonnes	250	192	165	221	247	277	309	280	305	315
4101	Hides	US$ million	606	565	712	959	1,023	1,204	1,290	1,413	1,142	1,514
		'000 tonnes	437	437	532	622	649	705	680	757	974	893
0402	Milk, cream concentrated	US$ million	115	162	217	274	235	291	326	401	584	1,396
		'000 tonnes	60	112	135	146	108	136	99	102	249	417
0714	Roots and tubers	US$ million	153	143	195	344	421	621	660	393	890	1,207
		'000 tonnes	1,951	1,761	2,368	3,442	3,336	4,951	4,621	1,979	6,109	5,764
1507	Soybean oil	US$ million	24	408	1,015	1,549	908	800	2,146	3,334	1,842	1,203
		'000 tonnes	70	870	1,884	2,516	1,694	1,543	2,823	2,586	2,391	1,341
1901	Malt extract	US$ million	71	105	101	145	175	282	355	581	847	979
		'000 tonnes	18	27	28	38	46	68	75	91	119	125
0207	Poultry meat	US$ million	444	426	462	154	334	462	945	1,088	984	963
		'000 tonnes	707	574	644	185	383	588	804	833	750	542
	Total agriculture imports		10,473	10,842	17,003	25,608	25,738	28,790	37,534	54,597	47,570	67,463

Source: UNSD Comtrade. Viewed at: http://comtrade.un.org/.

Table IV.5
Exports of selected agricultural products, 2001-10
(US$ million and %)

HS Code	Commodity description		2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0703	Onions	US$ million	269	403	462	541	714	996	1,048	797	1,269	2,612
		'000 tonnes	852	1,337	1,646	1,605	1,784	1,863	2,133	2,114	2,152	2,060
0712	Dried vegetables	US$ million	349	374	446	573	702	846	935	931	1,040	1,882
		'000 tonnes	202	188	214	230	242	274	318	318	316	369
2008	Fruit, nuts, preserved nes	US$ million	507	551	712	830	947	1,128	1,484	1,809	1,565	1,868
		'000 tonnes	568	699	861	961	1,063	1,136	1,348	1,312	1,246	1,308
1602	Other prepared/ preserved meat products	US$ million	593	666	711	838	1,109	1,172	1,214	1,003	1,036	1,316
		'000 tonnes	231	263	281	302	390	420	407	276	278	352
2309	Animal feed	US$ million	92	89	98	125	183	282	541	921	873	1,234
		'000 tonnes	186	145	144	161	174	210	424	666	550	748
0808	Apples, pears, quinces	US$ million	141	209	290	365	428	520	674	913	933	1,075
		'000 tonnes	486	682	906	1,092	1,192	1,179	1,425	1,600	1,635	1,561
2005	Other vegetables prepared/ preserved	US$ million	358	400	434	552	671	776	938	892	795	965
		'000 tonnes	485	528	582	705	811	879	983	930	835	936

Table IV.5 (cont'd)

HS Code	Commodity description		2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
2009	Fruit juices	US$ million	179	199	285	366	525	671	1,353	1,259	762	864
		'000 tonnes	258	323	453	533	707	746	1,141	794	897	896
0713	Dried vegetables	US$ million	280	319	359	331	388	406	542	826	816	836
		'000 tonnes	719	860	1,041	795	868	801	859	1,031	1,096	1,000
0504	Offal	US$ million	284	291	399	505	510	548	574	843	791	832
		'000 tonnes	52	56	65	63	64	71	69	68	70	76
	Total agricultural exports		**11,954**	**13,519**	**15,978**	**16,435**	**19,655**	**22,067**	**27,355**	**30,088**	**28,936**	**35,649**

Source: UNSD Comtrade. Viewed at: http://comtrade.un.org/.

(ii) Agriculture policies

10. Agriculture policies continue to evolve in the same direction as that seen in the last TPR of China. The 12th Five-Year Plan (2011-2015) reaffirms the commitments in earlier plans to build a Socialist New Countryside through strengthened support, more benefits to farmers, and the promotion of modernization in order to improve living standards for farmers. The main objective of domestic policy is to safeguard food security by increasing production capacity and improving competitiveness. More specific objectives are set out in the plan and include an increase in production capacity for grains (defined as rice, wheat, maize, and soybeans) by 50 million tonnes. This increase is to be achieved through higher investment in and payments to grain producing areas while improving agricultural production conditions. The plan also emphasizes the need to increase farm mechanization as well as the development and adoption of biotechnology. Other measures set out in the plan include increased minimum purchase prices for key grains, and improving temporary purchase and storage of bulk agricultural commodities.

11. Diversification of the rural economy is also stressed through the development of tourism, alternative-fuels, investment in infrastructure, improved town and village planning, and better public services (including education and training).

12. Agriculture policy at the national level is the responsibility of the Ministry of Agriculture. However, as in many countries, a number of other ministries and government agencies are also involved. In principle, the inputs of different agencies are coordinated at the level of the Communist Party and the State Council. Subnational authorities also affect policy as they are responsible for implementing and co-financing some policy measures. The basic law on agriculture remains the Agriculture Law of 1993, which sets out the division of responsibilities from the national to local level, including that of farmers.

13. All farm land in China is owned by the State or by collectives, and administered by the local authorities for the area. Under the Agriculture Law of 1993 and the Law on Land Contract in Rural areas of 2003, contracts for farming may be awarded to farm households. The length of contract is 30 years for arable land, 30-50 years for grassland ranges, 30-70 years for forestland ranges and possibly longer than 70 years for forestland ranges with special trees. At the end of the contract, priority is to be given to the current contractor over other applications.[5] Land rights were given greater clarity by the Property Rights Law of 2007, which essentially provides similar rights to private ownership. However, land may not be sold or sublet and may not be used as collateral for loans,

[5] Ministry of Agriculture online information. Viewed at: http://english.agri.gov.cn/ga/plar/ [October 2011].

which is a serious impediment to investment and restructuring.[6] In October 2008, the 17th Party Congress approved The Decision on Certain Issues Concerning the Advancement of Rural Reform and Development, which indicated that land policy could change, with greater rights to holders to transfer, rent or trade land. The Decision also seeks to prevent further loss of farmland to development.[7] As of end 2011, the Decision had not been translated into law and it remains to be seen if, and how, it may be implemented.

14. Since its previous Review, China has not made any major changes to its policies or programmes to support agriculture. It continues to use a broad range of measures that include tariff protection, minimum purchase prices for rice and wheat, government purchase and storage for these commodities, government temporary purchasing and stockpiling for some other commodities, input subsidies, and direct payments.

(a) Import measures

15. China has 1,097 tariff lines at the HS eight-digit level for agriculture products (WTO definition) with an average tariff of 15.1%, compared with 8.6% for all other products. Applied tariffs vary a lot from one product category to another with the highest tariffs applied to cereals (HS Chapter 10), sugars (Chapter 17), and tobacco (Chapter 24). The lowest tariffs are applied to fodder, and residues and waste from the food industry (Chapter 23), and live animals (Chapter 01).

16. Within each HS Chapter, tariffs may vary considerably, particularly in chapters with the highest average protection. Tariffs on cereals (HS Chapter 10) range from zero to 65%, and tariffs on sugars (Chapter 17) from 8% to 50%, with standard deviations of 32 and 17 respectively. Tariff variability in other HS Chapters is lower, for example tariffs on live animals range from 0 to 10% with a standard deviation of 4.9.

17. In line with its accession commitments, since 2006, China no longer operates tariff quotas for soybean oil, palm oil or rape seed oil. However it continues to operate seven tariff quotas covering 39 tariff lines for wheat, maize, rice, sugar, wool, and cotton.

18. According to the authorities, there has been no change to tariff quota administration since China's last notification to the Committee on Agriculture in 2003.[8] Under that notification, applicants had to meet some basic criteria including registration with the Administration of Industry and Commerce, and passing an annual review of the enterprise by the Administration of Industry and Commerce and the inspection and quarantine authorities. Quotas were then allocated based on the volumes requested, previous imports, production capacity, or on a first-come, first-served basis. State-trading enterprises continue to dominate access to tariff quotas, being allocated 90% of the wheat quota, 60% of the maize quota, 50% of the rice quota, 70% of the sugar quota, and 33% of the cotton quota.

19. As of February 2011, the most recent notification for in-quota imports was for calendar year 2009. Along with earlier notifications, this shows that in-quota imports for rice, wheat, and maize have been low compared to the quota quantity.[9] In response to questions in the Committee on Agriculture, China indicated that it did not intend to review its methods for allocating quotas, and the

[6] OECD (2009a), p. 90.
[7] Communist Party of China (2008).
[8] WTO document G/AG/N/CHN/2, 25 September 2003.
[9] WTO documents G/AG/N/CHN/19, 15 April 2010; G/AG/N/CHN/16, 10 August 2009; and G/AG/N/CHN/14, 19 February 2009.

low level of imports relative to the size of the tariff quota was due to high levels of domestic production coupled with high international prices.[10]

(b) Export measures

20. According to notifications to the Committee on Agriculture and based on its WTO commitments, China does not provide export subsidies for agricultural products.[11]

21. In order to reduce food-price inflation, export taxes were applied to grains and their products from the beginning of 2008 and were phased out, starting in December 2008, with the last ones removed by the end of June 2009. However, the VAT rebate rate on exports of most agricultural products is currently 5% compared with the statutory rate of 13%, which means VAT is not refunded in full. Furthermore, in December 2007 the rebate was removed entirely for a number of products, including cereals, soybeans, and their flours, with vegetable oils added to the list in June 2008[12], and alcohol and maize starch in July 2010.[13]

22. Exports of rice, maize, cotton, and tobacco are through state-trading enterprises and, along with other grains, are subject to export quotas.

(c) Domestic support

Direct payments

23. China's policy on direct payments to agricultural producers has not changed since its last TPR. According to the notification to the WTO Committee on Agriculture, it is based on the area of land contracted by the farm household and is decoupled from production and prices.[14] Direct payments now cover almost the entire countryside, although local authorities have the responsibility to decide, which areas under their jurisdiction may receive payments, and the subsidy level may also vary from one locality to another. The total amount provided for under the direct payments programme was ¥15.1 billion annually in the 2007-10 period.

Insurance programmes

24. In response to the very low insurance coverage for farming in China and the high degree of risk of drought or flooding, a pilot insurance scheme was introduced in 2007 with geographical coverage limited to six provinces.[15] Coverage had been extended to 28 provinces by end 2010. Insurance premiums are subsidized by the central and local governments with farm households paying the balance of about 20-30%.

[10] WTO document G/AG/R/56, 10 November 2009.

[11] WTO document G/AG/N/CHN/20, 15 April 2010; G/AG/N/CHN/15, 10 August 2009; G/AG/N/CHN/13, 18 February 2009; G/AG/N/CHN/12, 14 September 2007.

[12] OECD (2011), p. 231.

[13] World Tax Rates 2010/2011 online information. Viewed at: http://www.taxrates.cc/html/07d-export-vat-refund.html [November 2011].

[14] WTO document G/AG/N/CHN/18, 25 March 2010.

[15] World Bank (2007).

Input subsidies

25. China uses several types of input subsidy. The Comprehensive Subsidy on Agricultural Inputs was established in 2006 to compensate grain producers for increases in the price of inputs. However, the payments are not contingent on the consumption of inputs and, according to the authorities, are made on the basis of taxable arable area; thus the authorities consider that they function as direct payments rather than as input subsidies. The amount available under this programme increased steadily from ¥12 billion in 2006 to ¥71.6 billion in 2010.

26. The New Variety Extension Payment scheme, which was introduced in 2006 to improve the quality of seeds and livestock, has been extended from the original wheat, rice, maize, and soybeans, to include: rapeseed and cotton in 2007; potatoes in 2009; and barley in 2010 and, on a trial basis, peanuts. Livestock covered by the scheme include pigs, dairy cows, beef cattle, and sheep. In addition to increasing the product coverage, the scheme has been extended to cover greater areas, with all land sown with rice covered from 2008, and all land sown with wheat, maize, and cotton covered from 2009, and substantial expansion of the eligible area for soybeans in 2008 and 2009.[16] The rate of subsidy varies depending on the crop, from ¥10 per mu for early rice, to ¥15 per mu for cotton, and middle and late rice.

27. Although the support is provided through lower priced inputs in some areas, it has been reported that there is a growing tendency to pay subsidies directly to farmers without monitoring. If this is the case, then the New Variety Extension Payment scheme may be operating as a direct payment linked only to area planted.[17] The total amount provided under the scheme has increased along with the area covered and number of products included.

28. In 2008, the subsidy for reproductive sows was doubled to ¥100 but then restricted to high quality breeding sows in 2010.[18]

29. Fertilizer costs are controlled and subsidized through several measures. Exports are subject to export taxes, which have been adjusted a number of times in recent years and stood at 75% in October 2011.[19] Import measures taken to reduce the cost of fertilizers and fertilizer production include: reductions in tariffs on fertilizers and fertilizer raw materials; VAT reductions and exemptions; preferential prices for electricity, natural gas, and railway transport; and an exemption from the railway construction fund.

30. Purchases of agricultural machines are also subsidized at rates between 20% and 30% of the sale price. In 2008, the scheme was extended to cover the whole country. The local authorities are responsible for running the scheme and deciding what machines are covered pursuant to a catalogue of agricultural machines issued by the central government. The amount provided for the purchase of agricultural machines has increased steadily, from ¥2 billion in 2007 to ¥15.5 billion in 2010.

[16] USDA FAS (2011b).

[17] OECD (2011), p. 228.

[18] USDA FAS (2011c).

[19] Special export duty rates applied to HS 31021000, 31043000, 31049010, 31049090, 31052000, 31053000, and 3105400. Otherwise fertilizers have an interim export duty rate of up to 35% (HS 31502000).

Internal price supports

31. In addition to border measures that, to some extent, protect the internal market from competition from imports, China has a number of programmes that support domestic prices. Minimum purchase prices for rice and wheat are set each year by the National Development and Reform Commission. Although the prices have been rising each year (Table IV.6), the purchase price for rice has usually been below the world market price. According to the authorities, under ordinary circumstances, farmers sell grains at market prices; it is only when the prices of rice and wheat in the principal growing areas fall below the minimum purchase prices that farmers may sell grains at the minimum purchase prices to enterprises designated by the State.

Table IV.6
Minimum prices for rice and wheat, 2007-11
(¥ per tonne)

	2007	2008	2009	2010	2011
Wheat					
White wheat	1,440	1,540	1,740	1,800	1,900
Red wheat	1,380	1,440	1,660	1,720	1860
Rice					
Early indica	1,400	1,540	1,800	1,860	2,040
Middle and late indica	1,440	1,580	1,840	1,940	2,140
Japonica	1,500	1,640	1,900	2,100	2,560

Source: USDA and the Chinese authorities.

32. Up until 2010, Sinograin was responsible for all purchases under the Minimum Purchase Prices scheme, but since that year China National Cereals, Oils and Foodstuffs Corporation (COFCO), and China Grain and Logistics Corporation (CGLC) became entitled to make such purchases.

33. In addition to the Minimum Purchase Prices Scheme, the State takes other measures to adjust the supply and demand of certain agricultural products, such as purchasing and stockpiling on an ad hoc basis, and stock releasing for sugar cane and sugar beet, soybeans, maize, rapeseed, and cotton. The main distributors of grains are state-trading enterprises, such as Sinograin, which purchase from producers, and sell to processors through weekly auctions. In order to reduce demand and prices for grains, the State decided in November 2010 to restrict auctions to flour millers, feed millers, and livestock producers.[20] According to the authorities, purchases and sales from the national grain reserves by the State Administration of Grain take place at market prices.

34. For sugar cane, provincial governments administer and set purchase prices. The purchase price varies from one province to another but has increased steadily over the past six years and is now about ¥500 per tonne. The Government and local authorities hold stocks of sugar, with purchases and sales aimed at stabilizing prices based on decisions from the National Development and Reform Commission. For the year ending 30 September 2010, 1.71 million tonnes were auctioned from State sugar reserves.[21]

[20] USDA FAS (2011b).
[21] USDA FAS (2011e).

Conservation

35. The Green for Grain programme was introduced on a pilot basis in 1999 with the objective of encouraging afforestation, reversing ecological degradation and soil erosion, and reducing over-cultivation of sensitive land. In 2002, the programme was extended to cover all of China but, in 2007, it was restricted to afforestation of barren land due to concerns about its impact on grain production. Originally, farmers participating in the programme were given cash subsidies and grains to compensate for land taken out of production. Since 2004, the allocation of grains has been converted to cash. The cash subsidy is ¥20 per mu and the grain allocation (now converted to cash at the rate of ¥1.4 per kg) varies from one region to another.

36. By the end of 2008, 8.2 million ha of cropland had been converted to forest and 27 million rural households were participating in the programme. The Green for Grain programme was the biggest of several afforestation measures and, in the 1998-08 period accounted for over half of total spending of ¥284 billion on afforestation.[22]

37. Current spending on the Green for Grain programme is mostly for land already converted to pasture or forest, and total support for the programmes fell to ¥24.3 billion in 2011 from ¥42.8 billion in 2009.

(d) Support levels

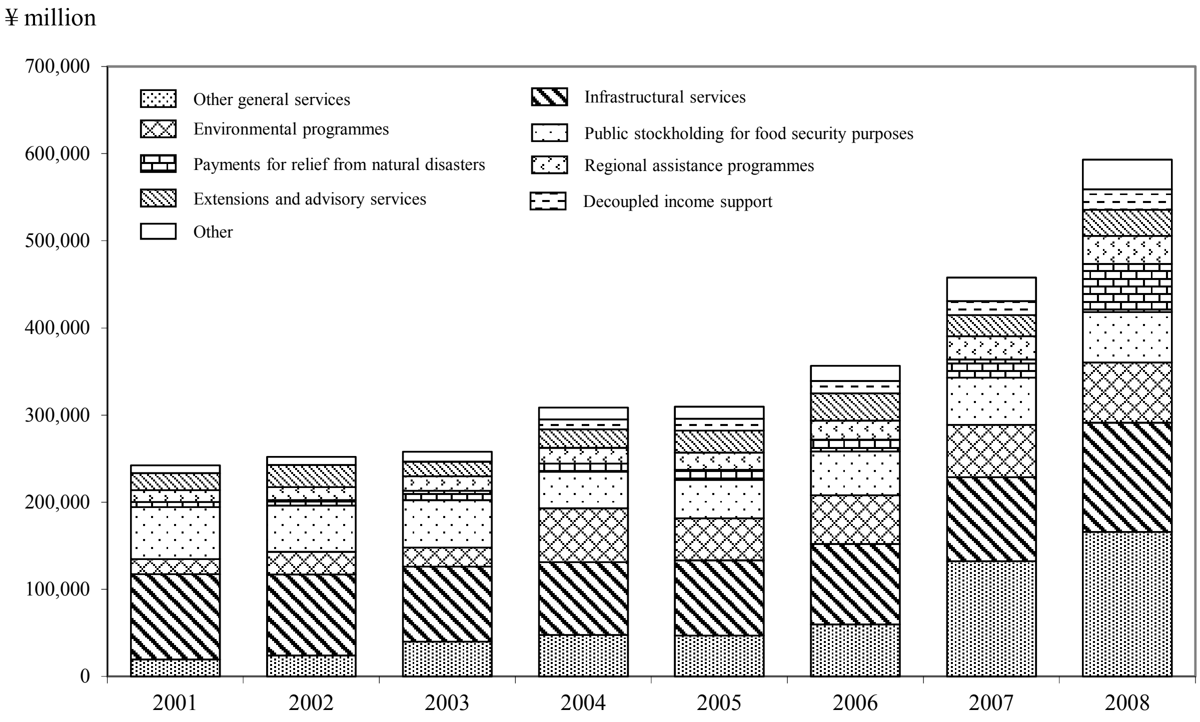
38. The most recent notification on domestic support to the Committee on Agriculture was in October 2011 for the calendar years 2005-08.[23] Along with earlier notifications, this shows that support has increased significantly over the past ten years in both the Green and Amber Box with Green Box support at ¥593 billion in 2008, and Amber Box support at ¥89 billion (including *de minimis* and subtracting negative product-specific support).

39. Most support notified as being in the Green Box is provided for general services, where infrastructure and other general services together represent nearly half of the total. While expenditure under all headings has increased (except for financial assistance to low-income households), it has been particularly rapid for compensation for losses due to natural disasters and for direct payments to farmers (which were introduced in 2004) (Chart IV.2(a)).

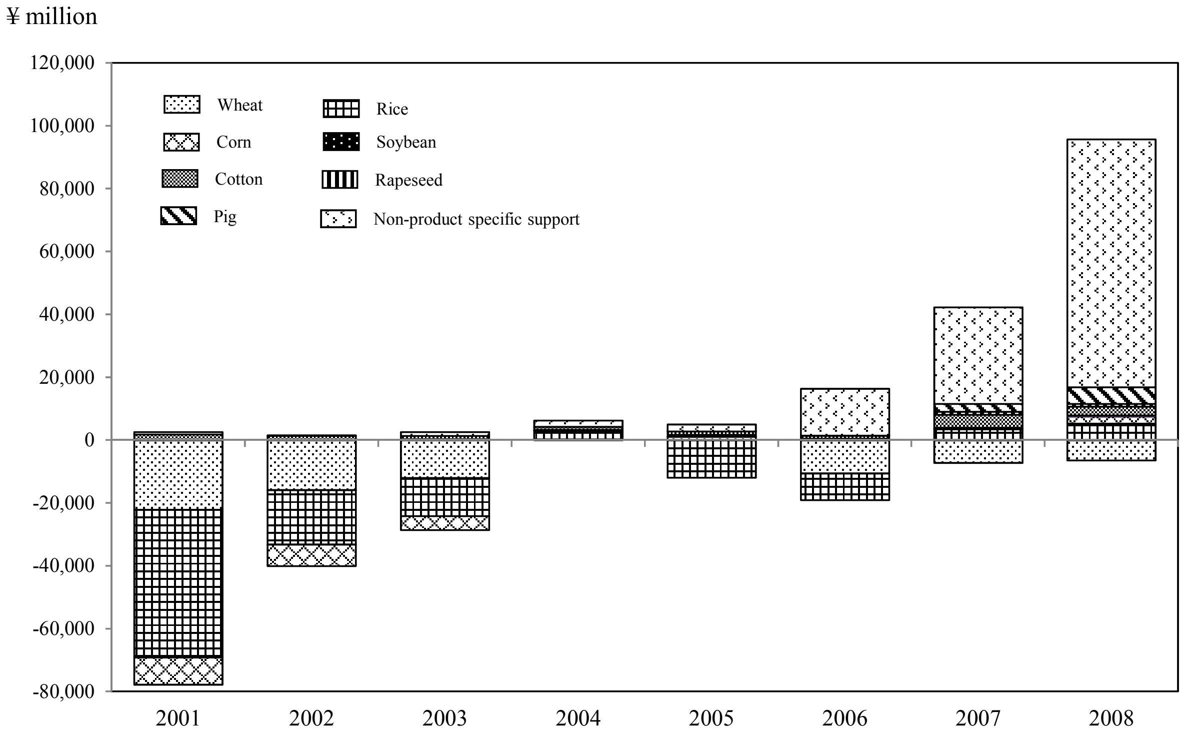
40. Amber Box support as notified to the WTO has also risen over the past few years as budgetary outlays increased for: improved crop strains and seeds; transport subsidies; and subsidies for maintaining national reserves. According to the notifications, the minimum purchase prices of wheat and rice between 2005 and 2008 and the protective price for maize between 1999 and 2003 were below the external reference price (the base period price for 1996-98). Therefore, in some years product-specific support was negative (Chart IV.2(b)). Since 2005, the value of input subsidies has increased significantly and reached nearly ¥79 billion in 2008. Although the level of support is increasing, it remains below *de minimis* levels as product-specific support is less than 8.5% of the value of production for each product and non-product-specific support is less than 8.5% of the total value of agricultural production.

[22] Liu and Wu (2010).
[23] WTO document G/AG/N/CHN/21, 13 October 2011.

Chart IV.2
(a) Green Box support, 2001-08



(b) Amber Box support, 2001-08



Source: **WTO notifications.**

41. The OECD has been publishing reviews of agriculture policies in China and other emerging economies for several years.[24] In these publications, the value of transfers to agricultural producers are measured using the Producer Support Estimate (PSE) and associated indicators. The methodology for calculating these indicators is different from that used to calculate the AMS and the two sets of data are not compatible or comparable. The methodology used by the OECD is evolving and was revised for the 2007 Monitoring and Evaluation report resulting in several changes, including to estimates of support of specific commodities.[25] The total PSE is "the annual monetary value of gross transfers from consumers and taxpayers to agricultural producers, measured at the farm gate level, arising from policy measures that support agriculture, regardless of their nature, objectives or impacts on farm production or income. It includes market price support, budgetary payments and budget revenue foregone, i.e. gross transfers from consumers and taxpayers to agricultural producers arising from policy measures based on: current output, input use, area planted/animal numbers/receipts/incomes (current, non-current), and non-commodity criteria." Thus, the PSE includes estimates for the value of protection provided by market access measures, such as tariffs and tariff quotas, as well as input subsides, direct payments to producers that are coupled to prices or production, and direct payments decoupled from prices and production.[26]

42. However, the authorities also pointed out that the research theories and methodologies of various international organizations, while having value, also have limitations. With respect to agriculture policies, different countries have different situations and face different problems, especially developed countries compared with developing countries at different stages of development with different policy objectives. Interpreting the OECD's reports should take these factors into account.

43. As measured by the PSE, support to agriculture producers in China has increased over the past decade, rising from 5% of gross farm receipts in 2001 to 17% in 2010 (with a sharp drop to 3% in 2008 when international prices peaked). At the same time the value of agriculture production has been increasing in China, so the monetary value of transfers to agricultural producers increased from ¥65 billion to ¥995 billion over the same period. Although the total value of support was less than the OECD average of 18% in 2010, the difference has narrowed considerably over the past ten years as support in the OECD declined from 28% in 2001 while support in China increased from 5%.

44. Transfers to specific commodities vary widely with the highest support given to cotton and sugar, where it may exceed half of the value of farm receipts. The lowest levels of support are for rice and eggs, where support is actually negative as State purchases are at prices below import prices, implying a net tax on producers (Table IV.7).

45. There appears to be some conflict among the different policy objectives for agriculture and the measures taken to achieve those objectives. On the one hand, protection of the natural environment is stressed in the 12th Five-Year Plan while subsidies and price-based measures have contributed to high use of fertilizers which has, in turn, meant they are one of the principle causes of surface and groundwater pollution.[27] On the other hand, the authorities stated that government policies are not intended to increase the use of fertilizers but to prevent seasonal shortages. The use of minimum prices and other price-based mechanisms to reduce price fluctuations at different levels for different crops, while also maintaining tariffs at various levels depending on the product, may also distort price signals for producers, which means they may not be reacting to real demand.

[24] OECD (2009a) and (2011).
[25] OECD (2007).
[26] OECD (2010a).
[27] OECD (2009a), p. 88.

Table IV.7
Total producer support estimate and single commodity transfer values for selected commodities, 2002-10
(¥ million and % of gross farm receipts for respective products)

	2002	2003	2004	2005	2006	2007	2008	2009	2010
Producer Support Estimate									
¥ million	203,004	255,613	239,543	295,244	436,230	440,899	168,762	708,642	994,780
of which MPS	121,357	157,586	96,383	109,406	205,310	142,193	-139,352	342,526	609,209
PSE as % gross farm receipts	8	10	8	8	12	10	3	13	17
Single Commodity Transfers									
Common Wheat									
¥ million	-17,844	-14,429	-11,962	-15,364	53,569	20,818	26,774	65,161	66,149
SCT as % gross farm receipts	-19	-15	-9	-11	34	13	14	31	28
Rice									
¥ million	12,980	17,582	38,669	3,288	-11,167	-2,433	-239,880	-168,599	-14,026
SCT as % gross farm receipts	7	9	14	1	-4	-1	-66	-44	-3
Maize									
¥ million	25,349	31,741	11,611	32,161	43,598	32,833	-35,896	40,468	68,079
SCT as % gross farm receipts	25	29	9	22	26	17	-15	16	23
Soybeans									
¥ million	5,885	10,417	-3,619	2,852	5,927	3,715	-4,620	12,210	12,767
SCT as % gross farm receipts	17	25	-8	7	16	9	-8	23	24
Cotton									
¥ million	15,836	37,015	-2,383	35,101	33,434	44,405	10,841	45,892	54,002
SCT as % gross farm receipts	34	51	-3	47	37	44	14	54	51
Rapeseed									
¥ million	-162	1,948	3,056	407	2,326	601	15,010	11,477	8,122
SCT as % gross farm receipts	-1	7	9	1	9	2	25	24	16
Pig meat									
¥ million	-10,803	-14,110	-4,409	-11,440	-14,656	-5,433	138,272	96,134	87,712
SCT as % gross farm receipts	-3	-3	-1	-2	-2	-1	16	13	12
Sugar									
¥ million	6,245	2,509	6,562	12,200	1,617	12,577	6,447	25,482	10,715
SCT as % gross farm receipts	41	18	39	54	7	46	20	70	29

Source: OECD (2011), *Agriculture Policy Monitoring and Evaluation 2011: OECD Countries and Emerging Economies*, Paris.

46. According to the OECD, nearly all support for the main commodities is provided through market price support measures (including tariffs) with a significant amount for input subsidies. The OECD has noted that these are among the less efficient and more trade-distorting forms of support to agricultural producers and that such policies are less efficient than alternatives, such as decoupled or area-based payments, because a large part of the benefits are lost to higher input and resource costs, and that these policies can also distort trade to a greater extent than their more efficient alternatives.[28]

(2) FISHERIES

(i) Overview

47. The fisheries sector in China is small compared with the agriculture sector, with gross output in 2010 of ¥642 billion out of a total of ¥6,932 billion for farming, forestry, animal husbandry, and

[28] OECD (2002).

fisheries. However, China has the biggest fisheries sector in the world: according to the FAO, total production in China in 2009 was over 60 million tonnes, compared with world production of 163 million tonnes. This lead applies in both the capture and aquaculture sectors where China has 16% and 62% of world production by weight respectively.[29] FAO data differ from national data; according to the National Bureau of Statistics, total production was over 51 million tonnes in 2009 (Table IV.8). However, both sets of data indicate that total production has increased considerably over the past few years, particularly for acquaculture, while the capture (or naturally grown) sector has remained stable.

Table IV.8
Fisheries production, 2002-09
(Million tonnes)

	2002	2003	2004	2005	2006	2007	2008	2009
All aquatic products	39.5	40.8	42.5	44.2	45.8	47.5	49.0	51.2
Seawater	23.0	23.3	24.0	24.7	25.1	25.5	26.0	26.8
Naturally grown	12.4	12.4	12.5	12.6	12.5	12.4	12.6	12.8
Cultured	10.6	11.0	11.5	12.1	12.6	13.1	13.4	14.1
Fish	8.9	8.9	8.8	9.1	8.9	8.9	8.6	8.8
Shrimps, prawns, crabs	2.7	2.6	2.7	2.8	3.0	3.0	2.9	3.0
Shellfish	9.7	9.6	9.7	10.1	10.5	10.7	10.7	11.2
Algae	1.2	1.2	1.3	1.3	1.4	1.4	1.4	1.5
Others	0.5	0.9	1.5	1.3	1.3	1.5	1.2	1.3
Freshwater	16.6	17.4	18.4	19.5	20.7	22.0	23.0	24.3
Naturally grown	1.9	2.1	2.1	2.2	2.2	2.3	2.2	2.2
Cultured	14.6	15.3	16.3	17.3	18.5	19.7	20.7	22.2
Fish	14.8	15.5	16.3	17.4	18.2	19.1	20.0	21.1
Shrimps, prawns, crabs	1.1	1.2	1.3	1.4	1.7	2.0	2.1	2.3
Shellfish	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5
Others	0.2	0.3	0.3	0.3	0.3	0.4	0.4	0.4

Source: National Bureau of Statistics, *China Statistical Yearbook 2010.* Viewed at: http://www.stats.gov.cn/english/ [February 2011].

48. Based on FAO data, the total value of aquaculture production (including aquatic plants) was US$57 billion in 2009, more than double the value in 2001 when it was worth US$27 billion. A wide variety of species are produced in both marine and inland aquaculture. The value of inland aquaculture production was US$44 billion in 2009, having doubled in value since 2005, when it was US$22 billion. The main products are various types of carp, tilapia, bream, and shrimps. Traditionally, inland aquaculture was based on ponds, lakes and reservoirs, and paddy-cum-fish fields, and it has been expanding to cages and pens in rivers, lakes, and reservoirs. Marine aquaculture was worth about US$12-13 billion over the 2004-09 period, despite steadily increasing quantities. The main products are fish, shrimps, crustaceans, shellfish, and kelp. Production of marine aquaculture is mostly in ponds, cages, and in intertidal zones.

49. Data on the value of capture fishing are not available from the FAO. In terms of the quantity, a large variety of species are landed, including largehead hairtail, croakers, scads, shrimps and prawns, squids, and molluscs. According to the FAO, China had 220,000 vessels in 2002, with plans to reduce the number to 192,000 by 2010.[30] The most common fishing gear used was the trawl net,

[29] FAO, Fisheries and Aquaculture Department, online statistics. Viewed at: http://www.fao.org/fishery/statistics/en [November 2011].

[30] FAO (2002-2011).

although gill nets, set nets, lines and hooks and purse seines are also used. In 2005 and in 2010, it was reported that China had 90 enterprises engaged in distant-water fishing with 1,700 vessels operating throughout the world.[31]

(ii) Trade

50. China has a trade surplus in fisheries products with exports of US$13.2 billion and imports of US$6.2 billion in 2010. Both imports and exports have increased over the past few years, except in 2009 when they fell, before picking up again in 2010 (Table IV.9). The main exports are fish fillets (HS 0304), aquatic invertebrates (e.g. crustaceans and molluscs) (HS 1605), and caviar and substitutes (HS 1604). The main imports are frozen fish (HS 0303), and flours, meals, and pellets not for human consumption (HS 2301). Japan, the United States, the EU, and South Korea are the main markets for China's exports of fish products, and Peru, Chile, Russia, and the United States are the main sources for imports.

Table IV.9
Trade in fisheries products, 2002-10
(US$ million)

HS Code		2002	2003	2004	2005	2006	2007	2008	2009	2010
	Total exports	**4,509**	**5,268**	**6,658**	**7,538**	**8,981**	**9,264**	**10,117**	**10,249**	**13,228**
	of which									
0304	Fish fillets and other fish meat fresh	928	1,161	1,469	1,920	2,286	2,435	2,599	3,106	3,689
1605	Aquatic invertebrates, prepared/preserved	762	1,101	1,405	1,846	2,401	2,362	2,599	1,782	2,360
1604	Prepared/preserved fish; caviar and substitutes	867	823	1,189	1,331	1,815	2,128	2,318	1,638	2,042
	Total imports	**2,251**	**2,430**	**3,133**	**4,003**	**4,162**	**4,544**	**5,158**	**4,998**	**6,206**
	of which									
0303	Fish, frozen, excluding fish fillets	1,005	1,195	1,519	2,194	2,414	2,635	2,729	2,711	3,132
2301	Flours, meals and pellets, etc, unfit for human consumption	676	545	770	1,098	969	1,042	1,436	1,344	1,746

Note: For the purposes of this section of the report, fish products are defined as HS headings 03, 1603, 1604, 1605, and 2301.

Source: UNSD Comtrade. Viewed at: http://comtrade.un.org/

51. Applied tariffs on imports of fish and fish products vary from 0 to 17.5%. In general, the lowest tariffs apply to inputs, such as fish fry and other cultivation material.

(iii) Fisheries policy

52. Fisheries policy is the responsibility of the Bureau of Fisheries in the Ministry of Agriculture. The main law governing fisheries is the Fishery Law of 1986, which was revised in 2004 to place greater emphasis on the conservation of fishery resources.[32] Under this Law, the State Council gives management instructions and targets to various departments and ministries. Below the Bureau of Fisheries, there are local fisheries authorities responsible for implementing the Fishery Law. The Fisheries Law Enforcement Command of China is in charge of the coordination of fisheries law enforcement, while Fisheries Management and Fishing Port Superintendence Bureaux of each

[31] Ministry of Agriculture online information, *Featured Fishery*. Viewed at: http://english.agri.gov.cn/sa/ca/fa/201001/t20100112_1572.htm [February 2012]; and Guifang Xue (2006), pp 651-658.

[32] The Fisheries Law of the People's Republic of China (2004 Revision) is available in English at: http://www.fdi.gov.cn/pub/FDI_EN/Laws/GeneralLawsandRegulations/BasicLaws/P020060620320441563935.pdf [February 2012].

regional sea (Yellow Sea and Bohai Bay, East China Sea, South China Sea) are in charge of law enforcement. The Bureau of Fishing Vessel Inspection in the Ministry of Agriculture is responsible for technical inspections of fishing vessels.[33]

53. China has fishing activity agreements with Japan (1997), South Korea (2000), and Viet Nam (2005), which are designed to address the creation of cooperative management regimes for their shared fisheries stocks.

54. China's fisheries policy generally restricts the development of coastal and inshore fisheries, and encourages the improvement of aquaculture and distant-water fisheries. Management of domestic marine fisheries is based on the 'minus growth' objective put forward in 2001 with a goal of gradually reducing the number of marine fishing vessels compared to 2002. Under this objective, China has implemented a series of measures including closed zones, seasonal closures, fleet buybacks and licensing schemes.

55. It has been claimed that there is some unregulated fishing, particularly among the fisheries operating within neighbouring EEZs.[34] In order to reduce illegal fishing, China requires all vessels to have valid fishing licences. In 2005, China operated 41 enforcement vessels to monitor its EEZ for illegal operations, and is implementing more control on vessel construction. Additionally, the Chinese Fishery Enforcement Command is cooperating with other countries' fisheries enforcement agencies to prevent illegal fishing in the North Pacific Ocean.

56. Under the revised Fisheries Law, the State may support the development of ocean fishery industry by taking measures in finance, credit, and taxation (Chapter III, Article 21). Furthermore, in 2006, the Ministry of Agriculture set out an Action Plan to encourage oceanic and transoceanic fishing and to speed up the development of distant-water fishing during the 11th Five-year Plan and beyond.[35]

57. Under the 11th Five-Year Plan, the Government provided funds for scrapping old vessels and encouraging fishermen to expand aquaculture or get involved in non-fisheries-related industries. Extra funding from local governments, and additional funds were made available for enforcement of fisheries legislation as well as retraining, job creation, and tax breaks for ex-fishermen and for stock enhancement and habitat improvement. It was reported that ¥270 million per year was allocated for compensation to fishermen withdrawing from offshore fishing.[36]

58. Official data on the value of support to the fisheries sector were not available. Estimates of the value of these supports vary widely depending on the source and methodology used. One report stated that the total value of support by the State to fishing was estimated to be US$4.1 billion in 2003, of which US$2.2 was for vessel construction, fuel infrastructure, and other supports to fishing activities, with fuel accounting for US$1.8 billion.[37] It has also been reported that, under a programme introduced in 2006, a fuel subsidy is payable when the price of petrol exceeds ¥4,400 per tonne and that of diesel exceeds ¥3,870 per tonne. The subsidy covers 50% of the price over these thresholds and 100% for prices over ¥5,480 for petrol and ¥5,070 for diesel. It was reported that the fuel subsidy covers fishery enterprises and fishers that use motorized fishing vessels for near-shore

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[33] FAO (2002-2011).

[34] Yu and Yu (2007).

[35] Ministry of Agriculture online information, *Featured Fishery*. Viewed at: http://english.agri.gov.cn/sa/ca/fa/201001/t20100112_1572.htm [February 2011].

[36] Zhou (2007), and Guifang Xue (2005), p. 197.

[37] Sumaila et al. (2009).

and inland fishing and aquatic production, as well as state-owned forestry and urban public transportation companies. According to some media reports, in 2006, two batches of fuel subsidies at ¥3.18 billion were allocated, and the implementation of the policy is to be strengthened under the 12th Five-Year Plan (2011-2015).[38]

(3) ENERGY

(i) Policy objectives for the sector

59. China's medium- and long-term objective for its energy sector is "to establish a stable, economical, clean and secured energy supply system so to meet the demand from social and economy development". Since its previous Review, China has further emphasized cleanness, safe use of energy, and energy security in its objectives.

60. China has established a state-level organization on energy, the National Energy Commission (NEC), headed by the Premier of the State Council. The NEC acts as coordinating and consultation body, responsible for drafting the national energy strategy, and reviewing key issues associated with national energy security and development. The National Energy Administration (NEA)[39], under the NDRC, performs executive functions as the regulator, and as the general office of the NEC. In principle, the NEA has a broad mandate over the whole energy sector, i.e. coal, oil, gas, electricity (including nuclear power), new energy, and renewable energy (including hydro power). The NEA is also the regulator of oil refinery, coal fuel, and fuel ethanol industries. Petrochemical and coal-chemical industries that are not under the jurisdiction of the NEA are regulated by MIIT.[40] The State Electricity Regulatory Commission (SERC) is the regulator of the electricity sector. In energy pricing, NEA has a consulting role for NDRC.

61. The NEA issued the National 12th Five-Year Plan for Energy Technology on 5 December 2011, with the aim of supporting the development of "strategic emerging industries" and of the energy sector. Implementation measures for the plan were not available to the Secretariat.

62. The authorities indicate that the Energy Law, which is intended to be comprehensive for the energy sector, is in the final stages of drafting.

(ii) Electric utilities

63. The revised Law on Renewable Energy entered into force on 1 April 2010; the revised law stipulates that the Government is to implement unified administration of the development and utilization of renewable energy, including to adopt a system of guaranteed full purchase of electricity generated from renewable energy. The law also states that development and utilization of renewable energy is the priority for national energy development, and "encourages" all enterprises, including foreign firms, to participate in the development of renewable energy.

[38] English.xinhuanet.com. Viewed at: http://news.xinhuanet.com/english2010/china/2011-03/07/c_13765575.htm; and *People's Daily* online, "20 mln fishermen benefit from China's subsidy mechanism: official", 7 March. Viewed at: http://english.peopledaily.com.cn/90001/90778/90860/7311555.html [November 2011].

[39] The Institutional Reform Programme of the State Council, 2008. Viewed at: http://www.gov.cn/2008lh/content_921411.htm.

[40] Online information. Viewed at: http://www.gov.cn/gzdt/2008-07/29/content_1058473.htm.

64. The Administration Measures on Power Grid Enterprises' Full Purchase of Electricity Generated by Renewable Energy[41] provides that on-grid electricity generated by renewable energy power plants must be purchased by distributors (regional monopolies) within the coverage of the their power grids. In terms of power generation scheduling, changes are being made to operational procedures for distributors whereby power plants with lower fossil fuel consumption will have priority access.

65. Private investment, including foreign investment, is encouraged in the development of renewable energy sector. In the new "36-clause on Private Investment" (State Council Circular 2010/13), domestic private capital is "encouraged" to build new energy sectors such as wind power, solar power, geothermal power, and biomass power. Electricity generation from wind power, solar power, or biomass power is also listed in the "encouraged" section of the *Catalogue for the Guidance of Foreign Investment Industries*.

66. While nuclear energy is not included in the law's definition of renewable energy, China also promotes electricity generation with nuclear energy; as in the case of renewable energy, FDI is encouraged.

(iii) Oil and gas

67. Since 1 November 2011, the resources tax[42] with *ad valorem* rates between 5% and 10% of sales has been levied on crude oil and natural gas produced in China, and tax preferences have been given to thickened oil, high pour point oil, high sulfur-containing natural gas, and other oil and gas products; this applies equally across domestic firms (including contractual joint-ventures).[43] Previously, domestic oil and gas producers paid the resources tax at specific rates on outputs, while contractual joint-ventures exploiting petroleum resources, onshore or offshore, paid mine usage levies at excess progressive rates on total outputs.[44]

68. The price of refined oil is capped under the guided "ceiling price" decided by NDRC. The current pricing mechanism, introduced in May 2009, allows NDRC to adjust the guided price when the moving average of prices over 22 consecutive trading days fluctuates more than 4% in the international oil markets.[45] The authorities are currently studying a new pricing mechanism for refined oil.

69. Pricing for gas is also under government "guidance". The current pricing mechanism for onshore natural gas is "cost plus" to determine "the benchmark ex-factory price" of gas; the benchmark ex-factory price is adjusted once a year. There are no relevant rules on the ex-factory price of offshore natural gas. The authorities indicate that there is to be a review of the current pricing

[41] SERC Decree 2007/25.

[42] The resources tax, levied on offshore oil produced in China, belongs to central government's revenues.

[43] Relevant regulations include: the revised Interim Regulation on Resources Tax; revised Regulations on Exploitation of Offshore Petroleum Resources in Cooperation with Foreign Enterprises (State Council Decree 607); and revised Regulations on Exploitation of On-shore Petroleum Resources in Cooperation with Foreign Enterprises (State Council Decree 606).

[44] Under the revised regulation, contractual joint-ventures with petroleum exploitation contracts signed before 1 November 2011 will continue to pay the mine usage levies (but not resources tax) until the contracts expire; operations under new contracts or contracts renewed on or after 1 November 2011 are to be subject to resources tax.

[45] Interim Administration Measures for Oil Prices (Fa Gai Jia Ge 2009/1198).

mechanism and a study on a new price formula mechanism for gas; pilot reform programmes on gas pricing are currently being carried out in Guangdong Province and Guangxi Autonomous Region.

70. Oil companies in China are subject to reserve requirements under the national oil reserve programme. The current capacity under the programme is 16.4 million cubic meters.

71. China has no legal provisions on energy trade through pipelines. Currently, there are three pipelines for oil and gas imports to China, with Kazakhstan, Turkmenistan, and Russia.

(4) MANUFACTURING

(i) Recent development

72. During the period under review, the Government continued to implement industrial revitalization plans for ten sectors announced in 2009 (for the period 2009 to 2011).[46] Policy devices used in the revitalization plans include tax- and non-tax incentives. Tax incentives include tax and tariff reductions, VAT exemption, and export tax rebates. Non-tax incentives include measures to: encourage and support industry restructuring through M&As; enhance the finance and credit-support environment; and strengthen R&D activities. The authorities state that these polices are applied equally to domestic and foreign-invested enterprises.

73. On 10 October 2010, the State Council announced that it intended to accelerate the development of seven "strategic emerging industries", aiming to increase their GDP share to 15% by 2020.[47] Detailed implementation guidance is being drafted at the central level. China has established a number of funding programmes and funds for "strategic emerging industries" since 2011. These are financed by the central or provincial budgets. They aim to provide funding support for common technology development in the "strategic emerging industries", such as energy conservation and environmental protection, new-generation information technology, biotechnology, new materials, intelligent equipment manufacturing, new energies, and new-energy vehicles. These funding programmes are open for all enterprises established in China, and are through equity participation in venture investment funds. On a local government level, Beijing, Heilongjiang, Anhui and Guangdong have established special funds to support "emerging industries".[48]

74. As part of the revitalization plans for ten sectors, China announced policies of "two going to countryside; two part-exchange", i.e. "domestic appliances and automobile vehicles going to countryside" and "domestic appliances and automobile vehicles part-exchange". Under these policies, a total of ¥12 billion was spent as consumption subsidies for 2009-10.[49] Subsidies for automobiles

[46] The ten sectors are: automobiles; iron and steel; equipment manufacturing; petrochemical industry; non-ferrous metals; textiles and clothing; electronics and information; shipbuilding; light industries; and logistics. Viewed (in Chinese) at: http://www.gov.cn/zwgk/2009-04/02/content_1276054.htm.

[47] State Councils' Decision to Accelerate the Development of Strategic Emerging Industries (State Council Circular 2010/32). The seven industries targeted in the Decision are: new-generation information technology; high-end equipment manufacturing; advanced materials; new-energy cars; energy saving and environmental protection; alternative energy; and biotechnology.

[48] Press release by MOF, 31 October 2011. Viewed at: http://www.mof.gov.cn/xinwenlianbo/quanguocaizhengxinxilianbo/201110/t20111031_603378.html.

[49] ¥5 billion was assigned for automobiles going to the countryside, for the period 1 March 2009 to 31 December 2009 (the automobile industry revitalization plan); ¥5 billion for automobile part-exchanges for 2009; and ¥2 billion for domestic appliance part-exchanges for 2009 (the Circular on Implementation of Encouraging Automobile and Domestic Appliance Part-Exchange, Guo Ban Fa 2009/44).

going to the countryside terminated in 2011.[50] The authorities indicate that the policy of "two going to countryside" generated domestic sales of over ¥50 billion and the policy of "two part-exchange" generated consumption of over ¥17 billion for 2009-10.[51]

75. Industries with excess capacities or industries of intensive energy consumption or high pollution, such as iron and steel, automobiles, textiles and clothing, petrochemicals, and light industry, face the need for structure adjustment.[52] The authorities intend to implement structural adjustment through the revision of the industry catalogues[53] and administrative orders.[54]

76. With a view to supporting R&D activities, China continues to provide eligible enterprises (including FIEs) with preferential tax treatment, such as reductions or exemptions, and cash subsidies.[55] In addition, certified high-tech enterprises are granted tax concessions. Any enterprise registered in China may apply for certification of high-tech enterprise status (Table IV.10). To be certified, an applicant must have "self-owned" intellectual property rights over the "core technology", acquired through in-house R&D, transfer or gift, M&A operations, or exclusive licence for more than five years.[56]

Table IV.10
Certified high-tech enterprises by sector, 2009-11

	2009	2010	2011
Electronics and IT			
Number of applicant enterprises	566	791	771
Number of authenticated enterprises	459	507	121
SOEs	42	24	7
Domestic private	95	342	83
FIEs	322	141	31
Advanced materials			
Number of applicant enterprises	347	458	489
Number of authenticated enterprises	278	315	114
SOEs	47	28	3
Domestic private	50	150	56
FIEs	181	137	55

Source: Information provided by the authorities. No statistical information was available on the machinery and equipment, and automobile subsectors.

[50] Subsidies for motorbikes going to the countryside continue until 31 January 2013.

[51] Minister Chen Deming's answer to journalists at a press conference during the National People's Congress, 7 March 2011.

[52] For information on industries with excessive capacities see State Council's Circular of Several Opinions about Suppressing Certain Industries with Excessive Capacities and Duplication so to Guide a Healthy Development of Industries (State Council Circular 2009/38); and State Council's Circular on Further Strengthening the Work of Backward Capacities Elimination (State Council Circular 2010/7).

[53] Catalogues of processing trade industries have been revised twice since the last Review of China. A new version of the *Catalogue of Industrial Structure Adjustment Guidance* was released by NDRC in March 2011.

[54] Administrative orders include closure of high energy consumption/highly polluting SMEs, and denial of applications for "purely" new investment projects that are of high energy consumption or high pollution.

[55] WTO documents G/SCM/N/155/CHN, 21 October 2011 and G/SCM/N/186/CHN, 21 October 2011.

[56] For detailed criteria, please see Administrative Measures for Authentication of High-Tech Enterprises; and the Operational Guideline for Administration of High-Tech Enterprises Authentication. Viewed at http://www.most.gov.cn/gxjscykfq/wj/200810/t20081029_64626.htm.

77. China maintains a policy to develop advanced machinery manufacturing, optimize natural-resources processing, and upgrade consumer goods industries.[57] During the review period, the Government continued to employ measures to "guide" resources into certain sectors of the economy, particularly manufacturing. The Ministry of Industry and Information Technology (MIIT) is the main regulator for the manufacturing sector. MIIT is responsible for developing industrial strategies, making industry plans and standards, and monitoring the operations of the industry. The National Development and Reform Commission is also responsible for coordinating industry development, promoting the use of key technology and equipment, and developing industry upgrade strategies. The Ministry of Science and Technology (MOST) is also involved in industrial policies for the high-tech manufacturing.

(ii) Selected subsectors

(a) Automobiles, automotive parts, and components

78. China has abolished local-content requirements for automobile manufacturing enterprises since August 2009.[58] The local-content requirements contained in the Management Measures for the Import of Auto Parts Used to Complete a Car were eliminated on 1 September 2009. Other import and export measures in the automotive sector remain unchanged; an automatic import licence is required from the MOFCOM, and the importation of used vehicles, parts and components are prohibited. Three ports have been opened for imports of complete vehicles since 2009, Khorgos (land route), Qinzhou (costal), and Jiangyin Port Zone of Fuzhou Harbour; previously, imports of complete vehicles were permitted only through four coastal ports, two terrestrial ports, and Alataw Pass.

79. Production of "new-energy cars" is subject to approval by NDRC and MIIT. In order to qualify, enterprises must "master" core technology in at least one of the following: vehicle energy systems, drive systems, or control systems. The qualified enterprises must have the capacity to produce prototypes of new-energy cars.[59] The authorities state that no technology transfer requirement is imposed; they consider that the requirement to "master" core technology of new-energy cars is necessary to guarantee the safety and quality of products.[60]

80. China also launched a series of new polices in January 2009 to promote the use of energy-efficient and new-energy automobiles.[61] The *Promotion Catalogue of Energy-saving Automobiles* is published jointly by NDRC, MIIT and the Ministry of Finance.[62] Consumers that

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[57] Chapter 9 of the 12th Five-Year Plan.

[58] Articles 52, 53, 55, 56, 57 of the Automobile Industry Development Policy (2004 version) ceased effect from 1 September 2009.

[59] For details see the NDRC Rules on Access Administration of New Energy Automobiles Production (with effect 1 November 2007), the MIIT Rules on Access Administration of New Energy Automobiles Manufacturing Enterprises and their Products (with effect 1 July 2009).

[60] WTO document G/L/963, 10 October 2011.

[61] See the Circular on the Pilot Programs for Demonstrating and Popularizing Energy-saving and New Energy Cars, and the Interim Measures for the Management of Financial Aid to Demonstrate and Popularize Energy-saving and New Energy Cars, issued jointly by MOF and MOST in January 2009; the Interim Administration Measures for Financial Aid for Private Purchase of New Energy Cars, enacted by MOF, MOST, MIIT and NDRC in May 2010; the Detailed Implementation Measures for Promoting Energy Efficient Automobiles (vehicles with a cylinder capacity of 1,600 cc and below) under the project of Energy Efficient Products Benefit People, issued jointly by MOF, NDRC, and MIIT (Cai Jian 2010/219) on 26 May 2010.

[62] The current version of the *Promotion Catalogue of Energy-saving Automobiles* is Version 7. See Announcement 2011/26, issued jointly by NDRC, MIIT, and MOF.

purchase new cars listed in the catalogue are entitled to a lump sum subsidy of ¥3,000 (up to ¥60,000 for new-energy cars).[63]

81. MIIT announced making industrial standard for new-energy automobiles one of the key tasks in 2010 and 2011. The Industrial Planning for New Energy Automobiles is being drafted.

82. The Opinions to Promote the Development of Remanufacturing Industry, issued jointly by NDRC and some other ministries and agencies[64], in May 2010, lists manufacturing of auto parts as a key project for development, and introduces a pilot programme to deepen the remanufacturing of auto parts. NDRC also adds producing key parts of new-energy cars under the category of automotive in the newly revised *Catalogue of Industrial Structure Adjustment* (2011 version). Manufacturing parts for new-energy cars is also added into the encouraged category in the *Catalogue of Guidance for Foreign Investment* (2011 version). The authorities note that a revision of the Automobile Industry Development Policy is being drafted.

(b) Electronics and information technology (IT)

83. Domestic private and foreign-invested enterprises are active in the electronics and IT sector. In 2010, FIEs accounted for 72.3% of the sector's total sales.

84. The Circular on Certain Policies for Further Encouragement to Development of Software Industry and Integrated Circuit Industry[65], promulgated on 28 January 2011, "further encourages to develop" manufacturing of integrated circuits. Under the Circular, eligible companies are accorded preferential tax treatment, including business tax exemption, enterprise income tax exemption and reduction for five years, and tariff exemptions for imported critical equipment. For enterprises that invest more than ¥8 billion or manufacture integrated circuits with line width less than 0.25 mu, more favourable tax concessions will be granted.[66]

85. The authorities expect the Development Fund for Electronics (IT Fund) to enhance its support to core technology development.[67] The Fund was established in 1986 with a view to supporting R&D activities in software, integrated circuits, and other informatics industries.

(c) Machinery and equipment

86. The machinery and equipment subsector accounted for about 19% of China's total industrial value added, and more than 9% of GDP in 2010. Under the 12th Five Year Plan, the subsector is projected to grow at an average annual rate of 12%.

87. Large equipment, "critical" parts and components for large equipment, and complementary equipment for large equipment were listed as "encouraged" in the *Catalogue of Industrial Structure*

[63] MOF Circular on Adjusting Subsidy Policy for Energy-saving Automobile Promotion (Cai Jian 2011/754), promulgated on 7 September 2011. Details of subsidies on new-energy cars are in the Interim Administration Measures for Subsidies to Private Purchase of New Energy Cars (Cai Jian 2010/230), issued jointly by MOF, MOST, MIIT, and NDRC on 31 May 2010.

[64] These include MOST, MIIT, Ministry of Public Security, MOF, Ministry of Environment Protection, MOFCOM, General Administration of Customs, SAT, SAIC, and AQSIQ.

[65] State Council Circular 2011/1.

[66] For detailed information on tax preference for the manufacture of integrated circuits, see WTO documents G/SCM/N/155/CHN and G/SCM/N/186/CHN, 21 October 2011.

[67] Minister Miao Xu of MIIT at the Exhibition of Achievements Supported by the Electronics Development Fund during the 11th Five-year Plan on 26 June 2011.

Adjustment. For example, manufacture of aircraft, aircraft parts and components, and other airborne equipment was listed in the "encouraged" machinery manufacturing in the catalogue. New-energy and energy-saving equipment were added to the 2011 version of the catalogue as "encouraged". On 17 August 2011, MIIT announced the Agricultural Machinery Development Policies (MIIT Announcement 2011/26) with the aim of optimizing the manufacture of agricultural machinery; the policies also identified key areas of technology development for agricultural machinery; tax incentives are granted for manufacturing and R&D activities concerning agricultural machinery.[68]

88. In the Certain Opinions on Actively Implementing the Promotion Strategies for Imports of Electrical & Machinery Products during the 12th Five-Year Plan, issued on 4 March 2011[69], the authorities specified strategies for machinery imports as: to optimized the structure of imported products composition by gradually increasing the import share of advanced technologies, key equipment, and key parts and components[70]; to satisfy the need for development of strategic emerging industries.[71] Details were not available to the Secretariat on how the import promotion strategies are to be implemented.

(d) Iron and steel

89. In 2010, the gross output of the iron and steel subsector was ¥5,760 billion, of which about 35% was contributed by SOEs, and about 12.3% by FIEs. In the same year, 42.56 million tonnes of steel materials were exported, while 16.43 million tonnes were imported, with net crude steel exports of 27.26 million tonnes. Some 32 enterprises had crude steel output of over 5 million tonnes per year, accounting for about 76% of China's crude steel output.

90. The iron and steel subsector is characterized by excess capacity. The Steel Industry Revitalization Plan showed the capacity of steel production at end-2008 at 660 million tonnes while domestic demand was about 560 million tonnes. The authorities noted that the excess capacity is mainly in "lower-end" steel production.

91. The Steel Industry Revitalization Plan set the goal of eliminating 72 million tonnes of iron production capacity and 25 million tonnes of steel production by the end of 2011. These included the elimination of 25 million tonnes of iron production capacity, and 6 million tonnes of steel production capacity in 2010. The authorities stated that the targets for 2010 was achieved.[72]

92. MIIT issued elimination targets for "backward capacity" to provinces, and published a list of outdated equipment, and of enterprises with backward production technology to be closed down. The outdated equipment was to be demolished by the end of 2011. Failure to do so would result in the revocation of permits and licences concerning production, safety, and the use of sewage, or suspension of power supplies.[73] Regulations also limited the number of approvals for new investment

[68] WTO documents G/SCM/N/155/CHN and G/SCM/N/186/CHN, 21 October 2011.

[69] Shang Chan Fa 2011/48.

[70] This is expected to be achieved through revisions of various catalogues, including the *Catalogue of Encouraged Imported Technologies and Products*.

[71] This would complement other industrial policies.

[72] Joint Announcement by MIIT and NEA (MIIT Announcement 2011/36) on 29 October 2011. Viewed at: http://www.miit.gov.cn/n11293472/n11293877/n13138101/n13138118/14323368.html.

[73] For details see MIIT Circular on the Implementation Plan for Elimination of Backward Production Capacity (GONG XIN BU LIAN CHAN YE 2011/46, 26 January 2011).

in the steel sector so as to strictly control new production capacity. Nonetheless, the capacity of crude steel production continues to rise; the actual capacity was 683 million tonnes as of the end of 2011.[74]

93. On the other hand, the authorities intend to increase the output proportion of "higher-end" steel. Production of high-end steel materials is listed in the "encouraged" category of the 2011 *Catalogue for the Guidance of Foreign Investment Industries*. China imported 16.43 million tonnes of "higher-end" steel in 2010.

(5) SERVICES

(i) Overview

94. China's trade in services (imports and exports) reached US$362.4 billion in 2010, a five-fold increase compared with 2001 (US$71.9 billion) and year-on-year growth of 26.4% (US$286.71 billion in 2009). Services trade accounts for 10.9% of the total value of exports and imports of goods and services, slightly less than in 2009 (11.5% of the total). Exports accounted for US$170.25 billion while the imports accounted for US$192.17 billion; therefore, China continued to run a structural services deficit. In 2010, overall, services accounted for 43.4% of Chinese GDP, an increment of nearly three percentage points in six years (2004, 40.5%) and of 0.4% over 2009. Some 14,852 foreign-invested services enterprises were established in China in 2010, an increase year on year of 21.6%, while the stock of foreign services investment was US$49.96 billion, a year-on-year increase of 29.6%.

95. According to the authorities, China's general policy is of gradual, progressive, and managed opening, with a view to promoting development through a win-win strategy for both domestic and foreign services suppliers. Since 2009, the Chinese Government has formulated or revised at least these regulations and policies to promote further services liberalization in: travel agencies (via the Regulations on Travel Agency, January 2009, and the Interim Measures for the Supervision of Outbound Tourist Business Operated by Sino-foreign Joint Venture as A Pilot Program, August 2010), financial information services (via the Regulations for the Management of Financial Information Services Provided by Foreign Institutions in China, April 2009); financial services (via the Interim Measures for the Management of Financing Bonding Companies, March 2010); medical services (via the Opinions on further Encouraging and Directing Social Capitals to Establish Medical Institutions, November 2010; and publishing (via the Regulations for the Management of Publications Market, March 2011). In addition, the Opinions of the State Council on further Utilization of Foreign Investment, April 2010 have further liberalized investment in several services sectors/areas.

(ii) Financial services

96. The structure of China's financial services remains dominated by banks over other types of financial institutions. In terms of market capitalization, the Chinese stock market accounted for about 66.69% of GDP in 2010. The ratio of total bank credit to GDP in China was about 19.81%.

97. During the period under review, China further opened its financial services to foreign investors.[75]

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[74] *China Construction Journal* report. Viewed at: http://www.nbcb.com.cn/zxqyzq/sczx/xykx/09/18455.shtml.

(a) Banking

Recent development

98. Since its previous Review, there has been little change in the market structure of China's banking sector, which is dominated by state-owned banks. The five largest state-owned commercial banks (SOCBs)[76] accounted for about 50% of the total assets of financial institutions during the review period. The remainder is attributed to foreign-owned commercial banks, joint-stock banks (JSBs), city commercial banks (CCBs), and rural commercial banks; recent policies encourage private investment in CCBs and rural commercial banks.[77]

99. The authorities consider that the "big four" SOCBs completed their corporatization when the Agricultural Bank was listed in July 2010.[78] According to the authorities, lending decisions by SOCBs are based entirely on commercial consideration. Policy banks in China are the Agriculture Development Bank of China and the Export-Import Bank of China.

100. As of end 2010, there were 37 wholly foreign-owned banks, 2 joint-venture banks, and 1 wholly foreign-owned finance companies established in China. There were also 74 foreign banks with a total of 90 branches.[79] In addition to local currency business, foreign presences in the Chinese banking sector can be seen as strategic investors in Chinese domestic banks. Except for the Agriculture Bank of China, the "big four" SOCBs, eight JSBs and 11 CCBs have foreign strategic investors as of March 2011. The main foreign investors in a Chinese bank typically appoint one or two directors and do not take a management role.

101. The disposal of NPLs has progressed. The authorities maintain that the five largest SOCBs did not transfer any NPLs to asset management companies in 2009 and/or 2010. At end 2010, the five largest SOCBs had total NPLs of ¥312.52 billion, and their NPL ratio was 1.3. The rapid accumulation of debts of local governments in recent years, together with loose credits to infrastructure through the 2009 stimulate package, raised concerns of another surge of NPLs.[80]

[75] In the State Council's Certain Opinions on Further Improvement of Utilizing Foreign Capitals (State Council Circular 2010/9, promulgated 13 April 2010), China encourages foreign banks to operate in the mid-west region, and foreign investors to establish venture capital enterprises; China also supports foreign capital investment in domestic equities, and encourages FIEs to issue stocks, bonds, and commercial papers.

[76] These are: Bank of China, Industrial & Commercial Bank of China, Agricultural Bank of China, Construction Bank of China, and Bank of Communications.

[77] Relevant policies include: the State Council's Certain Opinions on Encouraging and Guiding the Sound Development of Private Investment (State Council Circular 2010/13, promulgated 7 May 2010), and CBRC's Guiding Opinions on M&As over High Risk Rural Credit Cooperatives (CBRC Circular 2010/71, promulgated 1 September 2010).

[78] The "big four" are Bank of China, Industrial & Commercial Bank of China, Agricultural Bank of China, and Construction Bank of China. The Agricultural Bank of China, the Bank of China, the Construction Bank of China, and the Industrial and Commercial Bank of China are listed on the Shanghai Exchange and the Hong Kong Exchange.

[79] WTO document S/FIN/M/71, 4 November 2011.

[80] The operation to clean-up loans to the local government financing platform started during the drafting of this review. New loans to these platforms are strictly controlled. For existing loans, cash flow fully-covered loans will be treated as corporate loans.

102. Large commercial banks had met the standards of the Basel II Accord by the end of 2010.[81] The China Banking Regulatory Commission (CBRC) is currently carrying out assessment, examination, and approval in relation to large banks' implementation of new Basel Accord. In April 2011, the CBRC issued a Guideline for Implementation of New Regulatory Standards (CBRC Circular 2011/44), and required the start of the implementation of Basel III on 1 January 2012. Basel III standards are expected to be met by the end of 2013 for "systemically important banks", and by the end of 2016 for "non-systemically important banks".[82] The guideline explicitly stresses the definition of "systemically important banks" and prudential surveillance. Systemically important banks are to be required to issue self-salvage bonds. The authorities noted that the list of domestic systemically important banks has not published, and the Bank of China was on the list of 29 global systemically important banks as of November 2011.[83]

103. Deposits at the China Postal Savings Bank amounted to ¥3,919.59 billion at end 2011. The Bank is subject to the same laws, regulations, and rules as other banks, as well as enterprise income tax. According to the authorities, the bank is recognized as a community bank or rural bank with extensive outlets across the nation, especially in the countryside.

Non-bank financial institutions

104. Since 12 February 2010, foreign investors have been allowed to establish wholly owned personal consumption finance companies; previously foreign investment in personal finance was allowed only in the subsector of auto loans, through establishment of wholly owned or joint-venture auto-finance companies. Personal consumption finance companies are not allowed to engage in auto loan business.

105. "Financing bonding companies", which conduct credit guarantees, are regulated by the Interim Administration Measure for Financing Bonding Companies (CBRC Decree 2010/3). The regulator for financing bonding companies is a competent agency appointed by the Government at the provincial level (including minority autonomous regions, and municipalities). The authorities noted that foreign investment in financial bonding companies is neither prohibited nor restricted.

106. Since 22 July 2009, foreign financial institutions, with presence in China for more than two years, have been allowed to become principal investors (up to 100% ownership) of a consumer finance company, in accordance with the Administration Measures for the Pilot Programme of Consumer Finance Companies (CBRC Decree 2009/3).[84] Previously, investment by foreign financial

[81] "Large commercial banks" are banks that play an active role in other countries' or regions' financial markets, and whose overseas business constitutes a substantial share of their total business activities. Other commercial banks, including foreign bank subsidiaries in China, may implement Basel II on a voluntary basis.

[82] The new regulatory standards introduce three new capital requirements to replace the current two minimum capital adequacy ratio requirements, i.e. core tier 1 capital ratio ≥5%, tier 1 capital ratio ≥6%, and total capital ratio ≥8%; introduce a counter-cyclical capital supervision framework: 2.5% conservation buffer, and 0-2.5% counter-cyclical capital buffer; set the gross leverage ratio (4%) as a back-stop control measure; and establish the loan provision rate and the provision coverage rate: loan provision rate ≥2.5%, provision coverage rate ≥150%.

[83] Financial Stability Board (2011).

[84] As per the Administration Measures for the Pilot Programme of Consumer Finance Companies (CBRC Decree 2009/3), the principal investors of a consumer finance company must satisfy the following conditions: (1) more than 5 years of business experience in consumer finance; (2) gross assets not less than ¥60 billion (or equivalent value in other convertible currencies) at the end of the most recent year; (3) continuously making profits in the most recent 2 consecutive fiscal years; (4) no record of major violations in the most recent 2 years; (5) legal investment capital, i.e. loans or trusted funds are allowed; (6) guarantee for

institutions was only allowed in auto finance companies.[85] At the end of 2010, there were four consumer finance companies, including one fully foreign-owned company and two joint-ventures.[86] Subsidiaries of foreign banks are allowed to engage in personal loans business as provided in the Interim Administration Measures for Personal Loans (CBRC Decree 2010/2, 12 February 2010). Credit to individuals (through consumer loans, housing mortgages, and auto loans) has grown significantly since China's previous Review.[87] The average NPL ratio in this sector was 0.17%. Foreign presence is significant in the auto loans sector; 11 out of 13 auto-loans companies are foreign invested, including 6 wholly foreign-owned and 5 joint ventures.

107. The authorities state that bankcard interbank clearing services fall in the category of "financial settlement and clearing services for financial assets", which China has not committed to liberalize since its accession to the WTO in 2001.

Regulatory framework

108. The laws and regulations in China's banking sector, including the licensing requirement and procedures, have remained largely unchanged since its previous Review. The main legislation regulating the sector includes: the Law on the People's Bank of China, the Law on Commercial Banks, the Law on Regulation and Supervision of the Banking Sector, and the Anti-Money Laundering Law. The authorities noted that all regulatory measures apply equally to domestic and foreign enterprises.

109. Commercial banks in China are subject to a multi-layered regulatory framework involving: the People's Bank of China (PBC) (e.g. fixing interest rates, and regulating and supervising interbank transactions), the China Banking Regulatory Commission (CBRC, most aspects of banking activities), the China Securities Regulatory Commission (CSRC, conducting fund custodian business), the China Insurance Regulatory Commission (CIRC together with CBRC, conducting bancassurance business), and SAFE (e.g. regulations dealing with foreign exchange business). Additionally, the Ministry of Finance oversees the management of SOCBs' NPLs through asset management companies established to that effect (see below).[88] Among them, the CBRC is the primary authority responsible for the regulation and supervision of banking institutions, as well as overseas operations of local institutions. The PBC is responsible for maintaining financial stability in the market and has the authority to regulate against money laundering and payment settlement; it also has some broad supervisory powers, beyond the normal macro-prudential control of the financial sector.[89]

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a 3-year lockup period of equities of the consumer finance company in question; (7) healthy corporate governance, and risk management; and (8) meet other compliance standards.

[85] Investors of auto-finance companies must be enterprises that manufacture or market complete automobiles; or non-bank financial institutions (now including foreign institutions).

[86] The four consumer finance companies are: Bank of Beijing Consumer Finance Co. Ltd (wholly owned by Bank of Beijing); Bank of China Consumer Finance Co. Ltd (jointly owned by Bank of China, Brilliance Group, and Shanghai Lujiazui Finance & Development Co. Ltd); Sichuan Jincheng Consumer Finance Co. Ltd (joint-owned by Bank of Chengdu and Hong Leong Bank, Malaysia); and PPF Consumer Finance Co Ltd (wholly owned by PPF Group, Cze).

[87] As of October 2011, consumption loans outstanding were at ¥8,630 billion, accounting for 64.8% of total loans to households, compared with ¥5,121 billion in October 2009.

[88] In addition to the regulators, there are associations (for example, the National Association of Banking Industry and National Association of Finance Companies) that, according to the authorities, ensure industrial self-discipline, business cooperation, and innovation.

[89] The PBC has the power to inspect and supervise: the implementation of regulations on reserve requirements; activities related to special loans granted by the PBC; implementation of foreign exchange

110. China does not have a deposit insurance scheme; the authorities are currently drafting a scheme.

Licensing requirements and procedures

111. It would appear that the licensing requirements and procedures have remained unchanged since China's previous Review. The Law on Commercial Banks and the CBRC Rules on the Implementing Procedure for Administrative Licensing define the business scope, and set out licensing and other requirements for domestic-funded commercial banks. The establishment of a commercial bank requires CBRC approval and the issuance of an operating licence.[90] The licensing procedure comprises two steps: the applicant must submit a written application, along with a feasibility study, and "other documents" that may be specified by the CBRC; and the applicant is called upon to complete the application, by providing the required information.[91] If the establishment is approved, the CBRC issues a banking permit. The applicant must then register with the State Administration of Industry and Commerce (SAIC) and obtain a business licence.[92] The expansion of the branching network domestically or overseas also requires CBRC approval, and the issuance of a business licence by the SAIC for domestic branches.[93]

112. Approval by the CBRC is required for changes, *inter alia,* to the institution's name, the amount of registered capital, the location of the head office or any branch, the scope of business (including the introduction of new products or services), shareholders with 5% or more of the bank's shares, and the articles of association.[94] A change in senior management must also be notified to the

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regulations; implementation of regulations on inter-bank lending and the inter-bank bond market; implementation of regulations aimed at controlling clearing; and implementation of the regulations against money laundering. In addition, the PBC has specific powers concerning the inspection and supervision of banks. In that regard, it may propose the inspection and supervision of specific institutions by the CBRC, and it may conduct such an inspection on its own if the situation of a specific financial institution is likely to increase overall systemic risk.

[90] Under the law, commercial banks may engage in, *inter alia*: taking deposits from the general public; granting loans; handling domestic and foreign settlements; acceptance and discounting negotiable instruments; issuing financial bonds; buying and selling government and financial bonds; interbank lending; buying and selling foreign exchange; providing letter-of-credit services and guaranty; acting as an insurance agent; and other business operations as approved by the banking regulatory authority under the State Council (Article 3 of the Law on Commercial Banks, including the amendment of 27 December 2003).

[91] The required information includes: a draft of the articles of association of the company; certificates of the qualifications of the director; an investment verification certificate issued by a statutory investment verification organization; a list of the names, capital contributions, and shares of shareholders; credit worthiness certificates and relevant information on shareholders with 5% or more of the company's shares; and business policies and plans, and other documents as specified by the CBRC.

[92] Articles 14-16 of the Law on Commercial Banks.

[93] The same procedure applies for opening each additional branch. A branch must have sufficient operating funds for the scale of its business. The sum of operating funds allocated to all the branches must not exceed 60% of total capital of the head office. The applying bank must have maintained a favourable balance in the three most recent accounting years, and fulfil other regulatory requirements (capital adequacy ratio no lower than 8%; balance of equity investments does not generally exceed 50% of net assets; and balance of year-end assets at least ¥100 billion in the year prior to the application). In addition, the applying bank: must have lawful and sufficient sources of foreign exchange funds; must have a good corporate governance structure and a sound and effective internal control system; and its main prudential supervisory indices must meet the supervisory requirements.

[94] Other matters requiring approval of the CBRC include changes in operating funds of local branches of foreign banks or of foreign-invested or joint-venture banks, or the transfer of assets by headquarters to foreign financial institutions in China.

CBRC, and the qualifications of the new management approved.[95] For an SOCB, a board of supervisors must be established, *inter alia,* to oversee its operations and its asset-liability ratio and to maintain and increase the value of state-owned assets.[96] The Law on Regulation and Supervision of the Banking Sector sets out specific time limits for certain decisions.[97]

113. Since China's previous Review, there has been no change in the minimum registered capital requirement to establish a bank, or to the capital adequacy ratio (CAR). Minimum registered capital is ¥1 billion for a commercial bank, ¥100 million for an urban commercial bank, and ¥50 million for a rural commercial bank.[98] In addition, the CAR may not be lower than 8%.[99] Other requirements include: the ratio of loans outstanding by a commercial bank to related parties must be no more than 10% of the bank's total net capital (15% if the borrower is a group); and inter-bank borrowing must be no more than 4% and lending no more than 8% of the total.[100]

114. There is no umbrella licence for banks' operations; nonetheless, a pilot programme on "comprehensive operation" by commercial banks has been in place since 2006 in order to promote innovation in commercial bank operations (e.g. the establishment of fund management companies owned by commercial banks). The authorities noted that the pilot programme does not change the current regulatory framework. Commercial banks may need further authorization to supply specific services, such as derivatives and offshore client wealth management, in accordance with prudential principles and depending on the capacity of individual banks. A separate licence is required for all these services. For example, according to the Provisional Administrative Rules Governing Derivatives Activities of Financial Institutions, commercial banks (including branches of foreign banks) seeking to conduct derivative business must obtain prior approval from CBRC; it must meet various prudential requirements, including on the composition of trading teams and qualification requirements of professionals involved in the supply of these services. According to the Provisional Administrative Measures on Personal Wealth Management Business of Commercial Banks, commercial banks must apply for approval from the CBRC before they may provide certain personal wealth management services with guaranteed incomes.[101]

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[95] Article 24 of the Law on Commercial Banks.

[96] Article 18 of the Law on Commercial Banks.

[97] For example, decisions regarding the establishment of banks must be made within six months of the CBRC's receipt of the application; decisions on the introduction of new products or services must be taken within three months; and decisions regarding the fit and proper test of directors and senior managers must be taken within 30 days (Article 22 of the Law on Regulation of and Supervision over the Banking Industry).

[98] Article 13 of the Law on Commercial Banks.

[99] Furthermore, the ratio of outstanding loans to deposits may not exceed 75%; the balance of floating assets to floating liabilities may not be lower than 25%; and the ratio of outstanding loans granted to the same borrower to the balance of the capital of the commercial bank may not exceed 10% (Article 39 of the Law on Commercial Banks).

[100] Further details are given in the Rules on Commercial Banks' Connected Transactions with Insiders and Shareholders (CBRC Decree No. 3 of 2004) and the Rules on Monitoring Indicators and Assessments on Assets/liabilities Ratio Management at Commercial Banks (CBRC Circular No. 450 of 1996).

[101] Furthermore, the Provisional Administrative Measures on Commercial Banks Conducting Offshore Client Wealth Management Services (enacted by CBRC, SAFE and the PBC) authorize commercial banks with the relevant business qualification from CBRC to conduct investment in certain financial products outside China, on behalf of both domestic institutions and China's residents. The commercial bank must already have a foreign exchange business qualification. SAFE will, upon application, grant each qualifying commercial bank a foreign exchange quota for its offshore client wealth management business, within which the bank may invest in foreign exchange financial products with foreign exchange purchased with RMB. Any investment by clients who invest directly with their own foreign exchange (as opposed to RMB-purchased foreign exchange) is not

115. Commercial banks are generally prohibited from: trading and underwriting equity securities (unless they establish a separate subsidiary for that purpose); underwriting insurance policies (they may act as agents to sell insurance products); making domestic investments (other than in debt instruments issued by the Government and financial institutions, commercial paper, and bonds issued by qualified non-financial institutions, and certain derivative products); engaging in trust investment business, securities operations (except trading bonds); investing in real estate other than for their own use; and making equity investments in non-banking financial institutions and entities (unless otherwise specifically decided by the State Council); and supplying financial leasing services directly (other than by establishing a separate subsidiary). Commercial banks must apply to relevant authorities for a separate licence per business in order to carry out the above prohibited business.

116. In 2008, the authorities announced a pilot programme to allow banks to invest in insurance companies. Four banks have been approved to participate in the programme, among which two have been approved to become shareholders of insurance companies. There has been no foreign application for participation.

Foreign banks

117. The Regulations on Administration of Foreign-funded Banks, and the Rules for Implementing the Regulations on Administration of Foreign-funded Banks[102], stipulate the requirements (including the minimum registered and paid-up capital and total operating capital) for the establishment of wholly foreign-funded banks, and branches of foreign banks. In addition, foreign investment in Chinese financial institutions is regulated by the Administrative Rules Governing the Equity Investment in Chinese Financial Institutions by Overseas Financial Institutions.

118. Only foreign commercial banks that have maintained a representative office in China for at least two years prior to application, and that have total assets of not less than US$10 billion at the end of the year preceding the application, may apply to establishment a wholly foreign-funded bank (subsidiary). The same asset requirement applies for the establishment of a Chinese-foreign joint-venture bank. A foreign bank wishing to establish a branch must have total assets of not less than US$20 billion at the end of the year preceding the application, and must have maintained a representative office in China for at least two years in the area in which it applies to establish its first branch. The minimum asset requirements are higher for the establishment of branches than for locally incorporated entities. In addition, foreign financial institutions wishing to establish any type of operational foreign-funded bank must have persistent profit-earning capacity and a good reputation; have experience in international financial activities; have in place an effective anti-money-laundering system; and be subject to supervision, and have its application approved, by its home country regulator.

119. The minimum registered and paid-in capital for the establishment of a wholly foreign-funded bank or a Chinese-foreign joint-venture bank is ¥1 billion. Branches opened by wholly foreign-

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counted within the quota. Investment in offshore fixed income products, as well as stocks and high-risk products, is governed by the Circular Concerning the Offshore Client Wealth Management Services by Commercial Banks, and the Circular on the Adjustment in the Scope of Offshore Wealth Management Services of Commercial Banks.

[102] The term "foreign-funded bank" includes: a wholly foreign-funded bank, funded solely by a foreign bank or jointly with any other foreign financial institution; a Chinese-foreign joint-venture bank, jointly funded by a foreign financial institution with a Chinese company or enterprise; a branch of a foreign bank; and a representative office of a foreign bank. The first three categories are referred to by the regulations as "operational foreign-funded banks".

funded banks or Chinese-foreign joint-venture banks in China must be allocated ¥100 million as operating capital. Total operating capital allocated from a wholly foreign-funded bank or a Chinese-joint venture bank to all its branches must not represent more than 60% of the parent bank's aggregate capital. A branch of a foreign bank must be allocated operating capital of ¥200 million.

120. Wholly foreign-funded and Chinese-foreign joint-venture banks may engage in the same business operations as domestic commercial banks, both in local and foreign currency. However, branches of foreign banks may not supply bank cards; the authorities maintain that such restrictions are for prudential reasons and consider that this is standard practice in many other countries. Branches of foreign banks may only receive time deposits of not less than ¥1 million each from Chinese citizens within China. Operational foreign-funded banks wishing to engage in local-currency business must have had their business in China for at least three years, and have been profitable for two consecutive years, prior to the application.

121. Foreign equity participation in domestic financial institutions is restricted. Under the Administrative Measures on Equity Investments of Overseas Financial Institutions in Chinese Financial Institutions[103], no single foreign financial institution may own more than 20% of the equity of a Chinese financial institution. In addition, if the combined equity investment of all foreign financial institutions in a non-listed Chinese financial institution is equal to or exceeds 25%, the non-listed Chinese financial institution is regulated as a foreign-funded financial institution; if the combined equity investment of all foreign financial institutions in a listed Chinese financial institution is equal to or exceeds 25%, the institution is regulated as a Chinese financial institution. Where the CBRC deems foreign financial institutions as related parties, they are counted as one institution when calculating such entities' equity interest in China's commercial banks.

Lending, interest rates, and non-interest income

122. Lending and deposit-taking by banks have been deregulated since 2004, but some constraints remain.[104] The PBC uses dynamic adjustment of diversified legal deposit reserves as its macro-prudential policy tool, and states that no administrative restrictions are imposed on loan growth. Another instrument used by the PBC is to influence credit direction is "window guidance". The PBC has held regular meetings with commercial banks to outline its concerns about credit conditions across sectors. The authorities noted that "window guidance" is different from administrative means.[105]

[103] "Chinese financial institutions" referred to in the Rules comprise the Chinese commercial banks, urban and rural credit cooperatives, trust and investment companies, financial leasing companies, finance companies affiliated to enterprises, and other Chinese financial institutions chartered by the CBRC that are legally incorporated within China's territory.

[104] The Law on Commercial Banks requires commercial banks to take into consideration "the needs of national economic and social development", and follow the "guidance of the industrial policies of the State". Accordingly, in addition to the sector-specific lending provided by policy banks, the PBC and other administrative authorities encourage commercial banks to adapt their lending to specific borrowers in light of relevant government policies.

[105] Some researchers argue that "window guidance" to commercial banks, though effective in controlling credit growth in some periods, weakens competition and undermines the market determination of interest rates (OECD, 2010b).

123. Interest rates are subject to benchmarks set by the PBC[106], and lower and upper limits around these benchmark rates; banking institutions must set their rates within the limits. Commercial banks may charge lending rates above the benchmark (but not lower than 90% of the benchmark), and offer deposit rates below – but not above – the benchmark.[107] Some researchers argue that the benchmark rates may weaken the incentive for commercial banks to price risk appropriately and stifle competition in the banking sector.[108] Market-based interest rates are allowed in the short-term interbank money markets and bond markets.

124. In response to reports that SMEs were facing credit difficulties, especially as SOCBs had tightened their credit channels for SMEs[109], the PBC and CBRC issued circulars in 2010[110] to target financing operations for SMEs, calling for fast growth in credit provisions for SMEs, and guiding commercial banks, in line with national industrial- and environmental protection policies, to support small enterprises with solvency and good business opportunities.

125. The onshore market reference rates – Shanghai Inter-Bank Offered Rate (SHIBOR) – have been in operation since January 2007.[111] HSBC and Standard Chartered are the two foreign-invested banks among 16 quoting banks of SHIBOR. It is reported that SHIBOR is distorted by high-frequency volatility[112], and a *de facto* ceiling and floor caused by the benchmark rates.[113] However, according to the authorities, the SHIBOR may on the whole reflect the capital supply and demand situation of the market, and has become an important benchmark of marketized product pricing. Recent research shows that the PBC benchmark lending rate does not have a significant effect on firm level capital formation, whereas the effective lending rate influenced by SHIBOR has a significant impact.[114]

126. A maximum interest rate has been set for certain foreign-currency-denominated deposits of less than US$3 million with a maturity of one year or less.[115] The foreign currencies involved

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[106] Banking institutions must set their rates within the limits. Commercial banks may charge lending rates above the benchmark (but not lower than 90% of the benchmark), and offer deposit rates below – but not above – the benchmark. Ceiling rates for loans are still applied in rural credit cooperatives.

[107] Mortgage loans have been subject to a different policy. See WTO (2008).

[108] OECD (2010b), p. 55.

[109] It is reported that personnel policies in the banking sector make loan officers responsible for loans over their lifetime, without regard to risk-adjusted returns on their lending portfolios. This may lead to banks prefering not to take risks and to allocate credit to their smaller clients (OECD, 2010b).

[110] The PBC, jointly with CBRC, CSRC, and CIRC, issued Certain Opinions on Further Improving Operations of Financing for Small-and-Medium Enterprises (PBC Circular 2010/193) on 21 June 2010; the CBRC issued a Circular on Supporting Commercial Banks to Further Improve Services to Small-and-Medium Enterprises (CBRC Circular 2011/59) on 25 May 2011.

[111] SHIBOR is a simple, no-guarantee, wholesale interest rate calculated by arithmetically averaging all the interbank RMB lending rates offered by the price quotation group of banks with a high credit rating. The price quotation group consists of 16 commercial banks. These quoting banks are primary dealers of open market operations or market makers in the foreign exchange market, with sound information disclosure and active RMB transactions in China's money market (SHIBOR online information. Viewed at: www.shibor.org).

[112] Porter and Xu (2009).

[113] OECD (2010b), p. 51.

[114] Conway, Chalaux, and Herd (2010).

[115] There are no restrictions on interest rates for foreign-currency-denominated loans, foreign-currency-denominated deposits over US$3 million, or foreign-currency-denominated deposits of less than US$3 million with a maturity of more than one year.

include: U.S. dollars, yen, euros, and Hong Kong dollars. Regarding non-interest income, certain services are subject to regulated prices.[116]

(b) Securities

Recent developments

127. The equity market and the bond market are the main components of China's securities market.[117] Institutional investors in China's securities markets include securities firms, futures firms, insurance companies[118], and funds (i.e. mutual funds, social security funds, and private equities). In addition to shareholdings in joint ventures, and fund management companies, foreign presence in the Chinese markets may be in the form of investment banking, and qualified foreign institutional investors (QFIIs).[119]

128. China liberalized certain aspects of market access in securities business during the period under review, by allowing subsidiaries of foreign banks to underwrite financial bonds in the inter-bank market. Qualified institutional investors registered in Hong Kong, China are also allowed to trade equities in the A-share market with offshore RMB.

129. The pilot programme for margin trading was made permanent on 26 October 2011. Securities companies conducting margin trading must apply for approval from CSRC.

130. According to the authorities, the reform programme for conversion of SOE non-tradeable shares was completed in May 2011. The original non-tradeable shares will be traded on stock exchanges after a lock-up period following the completion of non-tradeable share conversion. The lock-up period is between one and three years. It is not clear to the Secretariat whether there is a defined number for minimum state-ownership of SOEs after the reform. The authorities note that the State should guarantee "controlling power, influence, and driving force of the state capital" in SOEs that operate in important industries or key areas vital for people's livelihood and national economy.

131. Policies and rules for QFIIs remain largely unchanged since the last TPR of China. Foreign institutions must apply to the CSRC to become QFIIs, and apply to the State Administration of Foreign Exchanges (SAFE) for investment quotas. Investments by QFIIs are allowed to be in equities, bonds, warrants, mutual funds, and stock index futures.[120] Foreign banks, securities companies, mutual funds, and insurance companies may apply to become QFIIs. The minimum

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

[117] The proportion of bond financing has been larger than that of equity financing since 2005; bond financing in 2010 accounted for 76.9% of total direct financing.

[118] Insurance companies may have direct equities holdings of not more than 10% of their total assets. Together with their holdings via asset management subsidiaries, insurance companies are allowed to hold no more than 25% of their total assets in stocks. Their ceiling corporate bonds holdings is 30%.

[119] Qualified foreign institutional investors that invest in equities in China using offshore RMB are called Renminbi Qualified Foreign Institutional Investors (RQFIIs).

[120] On 4 May 2011, the CSRC issued a Guideline for Qualified Foreign Institutional Investors' Participation in Stock Index Futures Trading. According to this guideline, no QFII may hold more than its investment quota value of stock index futures contracts at the end of any trading day. The transaction value of stock index futures within any trading day may not exceed the investment quota value for any QFIIs.

capital requirement for mutual funds and insurance companies has dropped from US$10 billion to US$5 billion since August 2006, whilst the minimum capital requirement for banks and securities companies remained unchanged. The investment quota for each QFII increased from US$800 million to US$1 billion in September 2009, and the global quota for QFIIs increased to US$30 billion. The lock-up period of long-term capital was shortened to 3 months from 12 months. There were 124 QFIIs in December 2011, 70% of which were mutual funds and insurance companies.

132. Under a pilot programme of Renminbi Qualified Foreign Institutional Investors (RQFIIs), subsidiaries of domestic fund management companies or securities companies that are registered in Hong Kong, China may invest in A-share equities with RMB raised in Hong Kong, China since 16 December 2012.[121] The Hong Kong-based institutions must also apply to the CSRC to be RQFIIs, and apply to the State Administration of Foreign Exchanges (SAFE) for investment quotas. The investment quota for RQFIIs is administered differently from the quota for QFIIs; the accumulative net (inbound) RMB capital of each RQFII may not be larger than the approved quota; the approved quota for individual RQFIIs may be reduced if the quota is not "effectively" utilized within one year of approval.[122] It was reported that 21 institutions share the current total quota, ¥20 billion, for RQFIIs. Detailed information on the expected business scope of RQFIIs was not available.

133. Policies for qualified domestic institutional investors (QDIIs)[123] remain largely unchanged since last Review of China.

134. On 21 April 2010, China began to allow Chinese and joint-venture securities companies and securities investment funds to participate in stock index futures trading. Since 4 May 2011, qualified foreign institutional investors (QFIIs) have been allowed to participate in such trading.

Equity market

135. The ChiNext board, established in the Shenzhen Stock Exchange in October 2009, is a new "growth enterprises board" aiming to "support" innovative firms and other growing enterprises. It listed 281 companies at end 2011, raising about ¥195.913 billion. In accordance with relevant CSRC rules, prior to starting up an account and investing in the ChiNext, investors must be familiar with the rules of the "growth enterprise board", be well aware of the market risks, and have the corresponding risk tolerance.

136. As agreed in the Sino-US Strategic Economic Dialogue in December 2007, and the Sino-British Economic & Finance Dialogue in May 2009, eligible foreign enterprises (registered outside China) are to be allowed to be listed on Shanghai Stock Exchange at the "appropriate" time.[124]

[121] CSRC Decree 2011/76.

[122] SAFE Circular 2011/50, entered into force on 20 December 2011.

[123] The programme of QDIIs began in April 2006, and gradually allowed approved Chinese institutional investors to invest in foreign securities. Qualified commercial banks, and fund management companies were first allowed in 2006; trust companies and insurance companies were allowed make overseas investments in June 2007, and securities companies in September 2009.

[124] This is also found in the State Council's Certain Opinions on Promoting Shanghai as an International Financial Centre and International Transport Hub by Acceleration its Development of Modern Services Sector and Advance Manufacturing Sector (State Council Circular 2009/19).

The authorities noted that preparation for the "International Board" was under way, though there is no strict timetable for its introduction.[125]

Bond market

137. While domestic (non-FIE) banks were already allowed to issue financial bonds in RMB, subsidiaries of foreign banks in China have been allowed to issue financial bonds in RMB in the Mainland since May 2009 and in Hong Kong SAR since July 2009. Between 2010 and 2011, two foreign invested banks were allowed to issue bonds in the Mainland's inter-bank market[126], and two locally corporatized foreign-invested banks were allowed to issue RMB-denominated bonds in Hong Kong SAR.[127] In addition, subsidiaries of foreign banks are allowed to underwrite financial bonds issued in the inter-bank market and corporate bonds (since 2004). The authorities noted that as long as certain conditions are satisfied[128], there is no special licence requirement for locally corporatized foreign-invested financial institutions to underwrite bonds. Direct branches of foreign banks are not allowed to issue or underwrite financial bonds. Certain commercial banks have been allowed to set up counters at their branches, where individual investors are allowed to buy and sell bonds; this "bank counter market" is still in its infancy.

138. Treasury bills, local government bonds, corporate bonds and warrants are traded in the stock exchanges (Shanghai and Shenzhen). At the end of 2011, 640 bonds with a total face value of ¥842.8 billion were in the secondary market (i.e. stock exchanges), an increase of about 34.25% compared with the end of 2010. Individual investors as well as institutional investors, including QFIIs, are allowed to trade bonds in the secondary market. In addition, 16 commercial banks are now allowed to participate, on a pilot basis, in bond trading in the stock exchanges. In September 2010, CSRC, jointly with the PBC and CBRC, issued a Circular on Certain Issues about the Pilot Programme of Listed Commercial Banks' Participation in Bond Trading on the Exchange.[129]

139. Since 16 August 2010, RMB clearing banks outside China, including in Hong Kong, China and Macao, China, have been allowed (within the approved quota) to use RMB acquired from their clearing operations to invest in the interbank bond market. As of end 2011, the interbank bond market managed ¥21.20 trillion, up 7.44% from 2010; cumulative transaction settlements amounted to ¥180.60 trillion, with year-on-year growth of 10.93%.

Futures market

140. Stock index futures started trading on 16 April 2010. Securities companies, securities investment funds, trust companies[130], and QFIIs are allowed to trade stock index futures. The CSRC issued a series of guidelines for trading stock index futures.[131]

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[125] Online information. Viewed at: http://www.ccstock.cn/stock/gupiaoyaowen/2011-05-18/A458709.html.

[126] These two banks were the Bank of Tokyo-Mitsubishi UFJ, and the Bank of East Asia.

[127] These two banks were HSBC, and the Bank of East Asia.

[128] Conditions were explained in the Administrative Measures for the Issuance of Financial Bonds in the National Inter-bank Bond Market (PBC Decree 2005/1).

[129] CSRC Circular 2010/91.

[130] CBRC Circular on Guideline for Trust Companies' Participation in Stock Index Futures Trading (CBRC Circular 2011/70).

[131] On 21 April 2010, the CSRC issued the Guideline for Securities Companies' Participation in Stock Index Futures Trading, and the Guideline for Securities Investment Funds' Participation in Stock Index Futures

Regulatory and legislative framework

141. The China Securities Regulatory Commission (CSRC) is the regulatory body for the securities markets in China. The main legislation is the Securities Law.[132] Under the Law and administrative rules, including the Measures on the Administration of Stock Exchanges, stock exchanges are self-regulatory legal entities.[133]

142. The CSRC implements the regulatory classification of securities companies and futures companies.[134] Classification is determined on the basis of, *inter alia*, risk-management capabilities, competiveness of the company, and continuous record of law-abiding operations. There are five categories, i.e. A, B, C, D, and E; according to the regulations, companies in category D may have greater risks than they are able to bear.

143. Classifications are conducted annually by the CSRC. The results of the exercise may be taken into account as prudential conditions when companies apply for new business, new branches. These results are also used as references for companies' levies paid to the China Securities Investors Protection Fund and the China Futures Investors Protection Fund.

144. In the Regulations on the Investment Range and other Related Issues of Securities Companies' Operation on Their Capitals, which entered in force on 1 June 2011, the CSRC defines the range of business that securities companies are allowed to operate with their own capital. Securities companies may establish subsidiaries to specialize in financial products and other investments beyond the range of securities operation with their own capital as defined in the regulation, however, securities companies may not provide finance or guarantees to these subsidiaries.

145. Securities investment consultants must acquire the qualification of securities investment consultant, and be registered in the Securities Association of China. Securities investment consultants may not simultaneously be registered as securities analysts.[135] Futures investment consultations are being undertaken on a pilot basis in futures companies after approval by the CSRC. In the Interim Measures for Futures Investment Consultancy Services by Futures Companies, which entered into effect on 1 May 2011, the authorities emphasized the prevention of conflict of interests (COIs), and required the chief risk-officers of futures companies to report, to the authorities in the quarterly and annual reports, particularly on COI prevention measures. Individual persons are prohibited from providing either securities investment advisory services or futures investment consultation services.

146. The regulations on foreign capital entering Chinese securities markets remained largely unchanged during the review period. In principle, foreign suppliers may enter China's securities markets through the establishment of a new joint-venture with a Chinese partner or by taking a stake

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Trading. On 4 May 2011, the CSRC issued the Guideline for Qualified Foreign Institutional Investors' Participation in Stock Index Futures Trading.

[132] Other major laws and regulations include the Company Law, the Securities Investment Fund Law, the Regulations on Administration of Futures Trade, and various regulations dealing with securities offering and listing; securities and futures trading; corporate governance, mergers and acquisitions of listed companies; market intermediaries; and securities investment funds.

[133] In addition, the Securities Depository and Clearing Company provides a centralized register, as well as custody and clearing services for, and exercises self-regulation over, securities trading.

[134] The CSRC issued revised Regulations on Administration and Supervision of Securities Company Classification on 14 May 2010, and Regulations on Administration and Supervision of Futures Company Classification on 12 April 2011.

[135] Article 7 of the Interim Rules on the Business of Securities Investment Advising, entered into force on 1 January 2011.

in an existing listed securities firm.[136] Foreign equity participation (accumulated total foreign participation) in listed Chinese securities firms is limited to 25%; and a single foreign investor must not hold more than 20%. Companies must have been in continuous operation in securities for five years in order to obtain approval for foreign equity participation. Foreign equity in joint-venture securities firms is limited to 33%.

147. Since 2008, there have been no changes to the Measures for the Administration of Securities Investment Fund Management Companies, which regulate the establishment of domestically owned and Sino-foreign joint-venture asset management companies.[137] The aggregate equity limit of foreign investment (direct and indirect holdings) for joint-venture fund management companies is 49%.

148. Since 2005, commercial banks have been allowed to establish fund management companies under a pilot programme. Currently, eight commercial banks have fund management companies as subsidiaries. The authorities state that the pilot programme is completed and under evaluation to determine whether its scope will be enlarged.

149. Revised Administration Measures on Vital Asset Restructuring of Listed Companies, entered into force on 1 September 2011. The revised measures cover three respects with regard to M&A and restructuring, in particular among SOEs, namely, backdoor listing, the system of buying assets through issuance of shares, and supporting finance.

(c) Insurance

Market overview

150. State-owned insurers dominate China's insurance market. As of 31 May 2011, there were 125 insurance companies in China's insurance market, including 51 life insurance companies, 57 non-life insurance companies, and 7 reinsurance companies. Of the 125 insurance companies, 74 were domestic companies and 51 were foreign companies. Since 2009, China Insurance Regulatory Commission (CIRC) has approved 15 new insurance companies, 10 domestic and 5 foreign-owned. At the end of 2010, the three largest life insurance companies held a market share of 55.6% and the three largest non-life insurance companies held a share of 66.5%.

151. The Interim Administration Measures for Usage of Insurance Funds, which entered into force on 31 August 2010, allows insurance companies to place their insurance funds in bank deposits, securities (i.e. bonds, stocks, and fund equities) trading, real estate investments, and overseas investments. Insurance funds must be entrusted to/hosted in and supervised by a professional third

[136] The business scope of these joint ventures include: underwriting stocks (including A, B, and H-shares) and bonds (including government and corporate bonds); brokerage business in only B and H-shares; and brokerage and proprietary trading of bonds (including government and corporate bonds). Qualified joint ventures are allowed to gradually expand to other business, including brokerage of RMB stocks, assets management, and operations with their own capital.

[137] Under the measures, minimum registered capital of ¥100 million is required to establish a fund management company. Principal shareholders, i.e. those holding no less than 25% of the company's total registered capital, must have minimum registered capital of ¥300 million; other shareholders must have registered capital and net assets of no less than ¥100 million. A foreign shareholder in these companies must: (a) be a financial institution established according to the law of its country of origin; (b) be located in a country that has "perfect securities laws and regulatory systems", and the securities regulatory institution must have signed an MOU on securities regulatory cooperation with the CSRC, and have kept an effective regulatory cooperation relationship; and (c) must have minimum paid-up capital in convertible currency equal to ¥300 million, even if it is not a major shareholder.

party such as a commercial bank. Insurance companies may entrust the funds to insurance asset management companies or operate the investment activities on their own capacities.

152. The Interim Rules on Administration of Insurance Asset Management Companies (revised in April 2011)[138] allows foreign and domestic insurance companies to establish insurance asset management companies. To be a stakeholder of an insurance asset management company, the insurance company must have been operation insurance business for more than five years, and have total assets of not less than ¥10 billion (not less than ¥15 billion for an insurance group company) with a solvency ratio not less than 150%. The registered capital of an insurance asset management company should be minimum paid-in capital of ¥100 million or equivalent values in other convertible currencies.

153. Banks and other financial institutions that acquire concurrent business agency licences are allowed to serve as insurance sales agencies.[139]

Regulatory and legislative framework

154. The China Insurance Regulatory Commission (CIRC) is the regulatory authority for the insurance market in China. It is responsible for granting permission to establish new insurance companies, new branches of insurance company, and to supply new products and engage in new activities. The CIRC is also responsible for prudential surveillances over the whole market.

155. The main legislative framework for the insurance sector includes the Insurance Law (revised in October 2009)[140], the Regulations on Administration of Foreign-funded Insurance Companies (State Council Decree 336, entered into force 1 February 2002), the Detailed Rules for Implementation of Regulations on Administration of Foreign-funded Insurance Companies (CIRC Decree 2004/4, entered into force 15 June 2004)[141]; and the Rules on Administration of Insurance Companies (CIRC Decree 2009/1, entered into force 1 October 2009). The latest revised law and regulations treat foreign-funded insurance companies the same as domestic insurance companies.

156. The Insurance Protection Fund of China was set up since 2008.[142] All insurance companies operating in China, i.e. domestic and foreign-funded, must pay levies to the Insurance Protection Fund.

157. The Provisional Measures for the Administration of Insurance Group Companies, promulgated on 12 March 2010, defines the range of business of insurance group companies, which is mainly in equity investment and management. It sets investment caps for insurance group companies and their subsidiaries, non-insurance financial enterprises, insurance-related non-financial enterprises, and overseas investments. The measures also aim to strengthen internal control of insurance groups'

[138] CIRC Circular 2011/19.

[139] CBRC Circular on Further Strengthening Sales Compliance and Risk Management of Insurance Agent Services Provided by Commercial Banks (CBRC Circular 2010/90). CIRC's proposed Administration Rules on Insurance Companies' Appointment of Financial Institutions as Insurance Agents (in consultation from 7 April 2011).

[140] Article 185 of the Insurance Law states that the Law also applies to foreign-funded insurance companies.

[141] Foreign-funded insurance companies include wholly foreign-owned insurance companies, Sino-foreign joint ventures, and branches of foreign insurance companies.

[142] The Administration Measures on Insurance Protection Fund, jointly issued by CIRC, MOF, and PBC, entered into effect on 11 September 2008.

affiliates. Capital management and information disclosure of insurance groups are subject to the measures.

158. Insurance companies and their branches must operate business activities within the territorial boundary of the province/municipality/autonomous region in which they are registered.[143] Insurance companies must establish at least one branch in the territory at the provincial level where they intend to operate business. However, re-insurance companies, including branches of foreign re-insurance companies, are allowed to operate nationwide.

159. Regulations and requirements for foreign investors to establish insurance companies, including wholly foreign-funded and joint ventures, remain the same. In the Measures for Administration of Equities of Insurance Companies (CIRC Decree 2010/6, entered into force on 10 June 2010), states that the threshold to determine whether an insurance company is classified as a foreign-funded insurance company is 25% of equity holding by foreign investors. No single investor (including its affiliated parties) may possess more than 20% of the insurance company's registered capital. Investors in insurance companies must be domestic legal persons, or foreign financial institutions.[144] Key shareholders that possess more than 15% of equity, or less than 15% but gain control (directly or indirectly) over an insurance company must: have continuously made profits in the most recent three consecutive fiscal years; have net assets of not less than ¥200 million; and hold a leading position in the industry. Any change or alteration of a single shareholder that possesses more than 5% equities requires CIRC approval. If a single investor acquires more than 5% of the stocks of a listed insurance company from the exchange, the company must report to CIRC for approval within five days of the acquisition.

160. Foreign financial institutions that invest in equities of insurance companies in China must have: continuously made profits in the most recent three consecutive fiscal years; have gross assets at the end of most recent year of not less than US$2 billion; have a long-term credit rating by international rating agencies of level A or above for the most recent three consecutive years; have had no major regulatory violation in the most recent three consecutive years; meet the prudential supervisory standards in the country of origin; and meet other requirements of Chinese laws, regulations, and CIRC rules.

161. A foreign-funded insurance company is not allowed to engage in the business of personal insurance and property insurance at the same time.[145] Foreign holdings of equities in a Sino-foreign joint-venture insurance company engaged in life insurance business may not exceed 50%.[146] Foreign-funded insurance companies that engage in life insurance business must not be dissolved.[147]

162. The Measures for Administration of Capital Deposit by Insurance Companies entered into force on 7 July 2011. Under the measures, 20% of the registered capital of an insurance company

[143] Exemptions are given to insurance companies engaged in co-insurance business, large-scale commercial insurance or master policy, and cross-provincial-border business underwritten through internet or telephone marketing activities. Article 42 of the Rules on Administration of Insurance Companies.

[144] Except for investors that purchase stocks of listed insurance companies on the stock exchanges. See Article 12 of the Measures for Administration of Equities of Insurance Companies.

[145] Article 16 of the Regulations on Administration of Foreign-funded Insurance Company.

[146] Article 3 of the Detailed Rules for Implementation of Regulations on Administration of Foreign-funded Insurance Company. Wholly foreign-owned insurance companies and branches of foreign insurance companies are not allowed to engage in life insurance in China.

[147] Except splits or mergers. Article 26 of the Regulations on Administration of Foreign-funded Insurance Company.

must be saved in capital deposit accounts within 30 days of permissions granted to operate or to increase registered capital.[148] The capital deposit is to be used only for debt settlement if the insurance company is liquidated. The Regulations on Administration of Reprehensive Office of Foreign Insurance Organizations in China is currently under public consultation.

(d) Financial information

163. Financial information services offered by foreign providers are regulated by the Administration of Provision of Financial Information Services in China by Foreign Institutions, which entered into force in June 2009. Financial information services are defined as services provided to users engaging in financial analysis, financial transactions, financial decision-making or other financial activities in respect of the provision of information and/or financial statistics that may affect financial markets.

164. The State Council's Information Office is the regulatory body for financial information services in China. Service providers must seek approval from the Information Office prior to operating in China.[149] Approved service providers must file with the regulator each service contract with domestic clients within 30 days of signing, termination, or alteration of the contract.[150] Service providers approved by the Information Office also require permission from MOFCOM, and must register with the SAIC within 30 days of this since permission being granted.

(iii) Telecommunications

(a) Market structure

165. According to ITU data, China had 64.4 mobile cellular subscriptions per 100 inhabitants in 2010, i.e. about 859 million subscriptions, up from 393 million subscriptions in 2005. This more than doubling in five years corresponds to a compound annual growth rate of 16.7%. Correlatively, the number of fixed lines decreased from 350 million to 294 million between 2005 and 2010, i.e. from 26.80 lines per 100 inhabitants to 21.95. Overall, penetration of telephones in China is still on the rise, from 79.9% in 2009 to 84.6% in 2010.

166. After the allocation of the third 3G licence to China Telecom in January 2009, there are now three main operators both for the fixed-line market and the mobile telephone market. These operators also provide data services, IP telephony services, and satellite services. CITIC networks provides only satellite services (Tables IV.11, IV.12 and IV.13).

167. While majority state owned, the three companies are listed on the stock market and hence open to private investors, including foreign, through the acquisition of shares. Foreign investment is of 25.80% in China Mobile, 28.99% in China Unicom, and 17.15% in China Telecom.

With regard to telephone tariffs, in 2009, average charges for traditional fixed-line and mobile domestic direct dials were ¥0.27/minute and ¥0.33/minute (with an access charge of ¥0.1/minute). Average charges for traditional fixed-line and mobile international direct dials were ¥3.40/minute and

[148] Insurance capital deposit is required by Article 97 of the Insurance Law.

[149] The decision whether to grant business approval is made within 20 working days of receipt of application. Each approval is valid for two years.

[150] Information to be filed includes information products, methods of delivery, identities of clients, and validity period of the contract. Article 12 of the Provisions states that all filed information is protected, and will be used for regulatory purpose only.

¥3.01/minute. In 2010, the averages were ¥0.26/minute and ¥0.23/minute for traditional fixed-line and mobile domestic direct dials; and ¥2.85/minute and ¥2.14/minute for traditional fixed-line and mobile international direct dials.

Table IV.11
Basic telecommunications service providers, 2011

Services	Providers
Fixed-line services	China Telecom, China Mobile, China Unicom
Mobile telephone services	China Telecom, China Mobile, China Unicom
Data services	China Telecom, China Mobile, China Unicom
IP telephony services	China Telecom, China Mobile, China Unicom
Satellite services	China Telecom, China Mobile, China Unicom, CITIC Networks

Source: Information provided by the Chinese authorities.

Table IV.12
Market shares for fixed lines, 2011

Operator	Market share of users (%)	Market share of revenue (%)
China Telecom	61.4	62.5
China Unicom	32.6	32.9
China Mobile	6	4.6

Source: Information provided by the Chinese authorities.

Table IV.13
Market shares for mobile telephones, 2011

Operators	Market share of users (%)	Market share of revenue (%)
China Telecom	12.4	9.7
China Unicom	20.3	14.3
China Mobile	67.3	76

Source: Information provided by the Chinese authorities.

168. With regard to tariff structure, in recent years, the Government has maintained the principles of breaking the monopoly and introducing competition in telecommunications. The Ministry of Industry and Information Technology (MIIT) has been promoting reforms on telecom tariff management, improving gradually the formation mechanism of market-oriented telecommunications tariffs. Against this background, telecoms tariffs have declined significantly, overall. With regard to the tariff structure for mobile telephony, MIIT issued a "Notice on Simplification of Charge of Long-distance Call via Mobile phone" in 2009, which simplified the tariff structure for local long-distance calls via mobile phones and combined local and long-distance call charges. In fixed-line telephony, maximum standard charges for dialling services among business areas have been gradually declining all over China, under MIIT and NDRC guidance. As of end-June 2011, the maximum interval fee standard was lowered to ¥0.2/min in 29 provinces, and interval fees were cancelled in Beijing, Shanghai, Tianjin, and Heilongjiang.

169. In order to encourage market competition and promote the lowering of communication costs, the upper-limits method (price caps) has been used instead of pricing by the Government, since 18 November 2009, to manage basic monthly fees for fixed local telephone services and fees for local calls with the business area, as well as basic monthly fees for local network wireless access, fees for local Netcom calls, and fees for long-term lease of leased circuit.

170. As of end 2011, the number of Chinese Internet users reached 513 million (an average of 38.3 per 100 persons), fixed broadband access subscribers reached 156 million (an average of 11.69 per 100).

(b) Regulatory regime

171. MIIT is the main regulator of the telecom industry. It deals with, *inter alia*, licencing, interconnection rates, technical standard settings, radio frequency allocations, spectrum monitoring and enforcement, numbering, type approval, services quality monitoring, universal service, quality of service standards, enforcement of the quality of service obligations, and information technology. MIIT shares its regulatory competence with the National Development and Reform Commission for price regulation; with the State Administration of Radio, Film and Television for broadcasting; and with the State Council Information Office, the Ministry of Public Security, the State Administration for Radio Film and Television, and the General Administration of Press and Publication for internet content.[151]

172. China's GATS and FTA commitments on telecommunications comprise four main blocks, except in the Closer Economic Partnership agreements with the Hong Kong SAR and the Macao SAR, which define a *sui generis* regime, and in the FTA with ASEAN, which does not include any telecommunication commitment.

173. The first block covers all value-added telecommunications services "<u>including</u>" items (h) to (n) of the MTN.GNS/W/120 nomenclature, i.e. electronic mail (h); voicemail (i); electronic data interchange (k); enhanced/value-added facsimile services (including store and forward, store and retrieve) (l); code and protocol conversion (m); and online information and/or data processing (including transaction processing). For those services, entry for mode 1 refers to mode 3 ("see mode 3"), there are no restrictions for mode 2, and commercial presence is allowed in the form of joint venture, with foreign investment limited to 50%. The additional commitments column indicates that the reference paper obligations apply to those services. The commitments contained in the FTA with Pakistan, New Zealand, Singapore, and Chile (by cross-reference for the latter) are identical to GATS commitments; however the reference paper obligations are not included for value-added telecommunication services in the agreements with New Zealand, Singapore, and Peru.

174. The second block of commitments comprises one basic telecommunication service, paging, for which the conditions are identical to that of value-added services (mode 1: "see mode 3", mode 2: none; and mode 3: only in the form of joint venture, with foreign ownership limited to 50%; obligations of the reference paper) under GATS as well as under the FTAs with Pakistan, New Zealand, Singapore, and Chile (by cross-reference for the latter).

175. The third block, mobile voice and data services, covers both analogue/digital/cellular services and personal communication services. Under GATS commitments, mode 1 refers to mode 3, no restrictions are inscribed for mode 2, and commercial presence is allowed in the form of joint venture, with foreign ownership limited to 49%; and the obligations of the reference paper are inscribed. The commitments are identical in the FTAs with Pakistan, New Zealand, Singapore, and Chile (by cross-reference for the latter).

176. The fourth block covers fixed domestic and international basic telecommunications services i.e. voice services, packet-switched data transmission services, facsimile services, domestic

[151] International Telecommunication Union, "ICT EYE" data base. Viewed at: http://www.itu.int/ITU-D/icteye/.

private-leased circuit, and international closed user group voice and data services. In the latter case the commitment indicates that the use of private leased circuit services is permitted. The regime is the same as for mobile services (mode 1: see mode 3, mode 2: none, mode 3: joint venture, with foreign ownership limited to 49%, and subscription to the reference paper obligations) both under the GATS and under the FTAs with Pakistan, New Zealand, Singapore, and Chile (by cross-reference for the latter).

177. The Closer Economic Partnership agreements with the Hong Kong SAR and the Macao SAR contain extensive commitment formulated with *sui generis* classification and definitions that are drawn from the "Mainland telecommunication business classification" and not from the MTN.GNS/W/120 and the "Chairman's note" (S/GBT/W/2/Rev1) categories referred to in China's GATS commitments. Hong Kong/Macao SARs services suppliers are allowed "to set up joint venture enterprises to provide the following five types of value-added telecom services: (1) internet data centre services, (2) store and forward services, (3) call centre services, (4) internet access services, (5) content services", with shareholding limited to 50%. In addition, Hong Kong/Macao SARs services suppliers are allowed to set up joint ventures, with maximum participation of 50% to provide IP virtual private network services. Hong Kong SAR suppliers are allowed to distribute fixed/mobile telephone services cards in Guangdong province, which may only be used in Hong Kong/Macao (to the exclusion of mobile satellite phone services cards); this does not apply to Macao suppliers.

178. There have been no major changes to the institutional structure or the existing regime since 2009. A draft telecommunication law, whose first draft dates back July 2004, is still in preparation through a process of further investigation, verification, opinion soliciting, and modification, presided over by the Legislative Affairs Office of the State Council. There are no plans to lift or ease the provisions on minimum registered capital.

179. Department rules enacted or amended since 2009 by the Ministry of Industry and Information Technology include: Measures for the Administration of Seismic Performance Testing of Telecommunications Equipment (MIIT Order No. 3, 1 March 2009, effective 10 April 2009); Decision on Abolishing the 8 Rules like Provisions of the Ministry of Posts and Telecommunications on Compensation for Damages to Telecommunication Lines, etc. (MIIT Order No. 4, 1 March 2009, effective 10 April 2009); Administrative Measures for the Licensing of Telecommunication Business Operations (MIIT Order No. 5, 5 March 2009, effective 10 April 2009); and Measures for the Administration of Communication Network Security Protection (MIIT Order No. 11, 21 January 2010, effective 1 March 2010).

180. These are essentially technical regulations with no effect on market access for foreign investment. However, the Administrative Measures for the Licencing of Telecommunication Business Operations amend the existing rules by further detailing and specifying the material to be provided by an applicant for a licence, as well as the procedures for the approval of licences and the specific requirements for applicants' behaviour (compliance with laws and regulations, prohibition of deceptive and fraudulent practices to the detriment of consumers, prohibition of anti-competitive practices, etc.). The rules are applied on a non-discriminatory basis to national and foreign applicants, provided that the latter comply with conditions set up by the Provisions on the Administration of Foreign-funded Telecommunications Enterprises (Decree No. 534 of the State Council of the People's Republic of China).

181. MIIT Order No. 11 on Measures for the Administration of Communication Network Security Protection, issued in January 2010, imposes technical requirements on business operators to guarantee the security of the network against viruses and malicious attacks so as to maintain the integrity of the

network and the economic and social benefits attached to it. The standardized technical requirements include a security-risk-analysis report and regular reviews of the security measures by the Regulatory Agency. Order No. 11 applies to providers of both basic telecommunications and value-added services, including internet. This complements the new CCC (China Compulsory Certification) requirement for IT security products issued in 2009 by the Ministry of Public Security.

182. In the "restricted" category of the 2011 *Catalogue for the Guidance of Foreign Investment Industries* telecommunications companies are classified as: "value-added telecommunications services (the foreign capital must be less than 50%), basic telecommunications services (the foreign capital must be less than 49%)". The same catalogue places in the "prohibited" category: "News websites, internet audiovisual programme services, operating sites offering internet-surfing services, as well as culture-related businesses on the internet (music excluded)".

183. Article II Clause 9 of the document Several Opinions of the State Council on Encouraging and Guiding the Healthy Development of Private Investment stipulates that Chinese authorities should "encourage the private capital entering the basic telecommunications market by means of sharing, support the private development of the value-added telecom service and reinforce the supervision of monopolization telecom field and unfair competition behaviours, to promote a fair competition and the resource sharing".

184. According to existing rules, basic telecommunication has to be at least 50% state owned, but in application of that policy, six basic telecommunication subsectors have been opened to private investment up to 100% for Chinese nationals. These are: analogue trunking telecom service; radio paging service; domestic very small aperture terminal (VSAT) earth station communication service; the "second category" of data communication services (including fixed-network domestic data transmission service and wireless data transfer service); customer premises network (CPN) service; and web-hosting service. As a result, the six basic telecommunications services are now aligned with value-added services, which, except for domestic multi-party telecommunications, have long been opened fully to private investment. According to the Chinese authorities, only two of these services, radio paging services and the second category of data communication services, are covered by China's WTO commitments, via the paging services and "packet switched data transmission" entries, and therefore open to foreign investment.

185. Regarding interconnection, China has issued two new regulations to strengthen supervision and administration of telecom network operations and ensure steady and reliable operations of telecom networks. Firstly, Chapter III, Article 25 of the Measures on Supervision and Administration of Telecommunications Network Operations (No. 187, 2009 of the MIIT) stipulates that basic telecom services operators shall apply protective measures of network architecture on the interconnection between networks. Secondly, to reinforce the supervision and administration of interconnection quality between internet backbone networks, regulate the processing of interconnection, and guarantee smooth interconnection between internet backbone networks, the MIIT issued Measures on Supervision and Administration of the Interconnection Quality between Internet Backbone Networks (No. 48, 2011, 10 May 2011). Other rules on interconnection have not changed since the last TPR of China[152], except that China's regulations now define the term leading telecommunications business operators as "operators that control vital telecommunications infrastructure, have a relatively large

[152] See WTO document WT/TPR/S/230/Rev.1, paragraph 94, pp. 89-90.

share of the telecommunications market and can materially influence the entry of other telecommunications business operators into the telecommunications business market".[153]

186. China has issued a large number of regulations regarding internet services (Table IV.14).

Table IV.14
Regulations on Internet Services

Title	Issued by	Date issued	Date effective
Regulation on Telecommunications of the People's Republic of China	Decree No. 291 of the State Council of the People's Republic of China	25 September 2000	25 September 2000
Measures for Administration of Information Service via Internet	Decree No. 292 of the State Council of the People's Republic of China	25 September 2000	25 September 2000
Provisions on the Administration of Foreign-Funded Telecommunications Enterprises	Decree No. 534 of the State Council of the People's Republic of China	10 September 2008	10 September 2008
Administrative Measures for the Licensing of Telecommunication Business Operations	Order No. 5 of the Ministry of Industry and Information Technology of the People's Republic of China	5 march 2009	10 April 2009
Administration of Internet Electronic Messaging Services Provisions	Order No. 3 of the Former Ministry of Information Industry	6 November 2000	6 November 2000
Interim Provisions on the Administration of Internet Publication	Decree No. 17 of the General Administration of Press and Publication and former Ministry of Information Industry	27 June 2002	1 August 2002
Measures for the Administration of Internet Domain Names of China	Order No. 30 of the Former Ministry of Information Industry	5 November 2004	20 December 2004
Measures for the Archival Administration of Non-operational Internet Information Services	Order No. 33 of the Former Ministry of Information Industry	8 February 2005	of 20 March 2005
Measures for the Administration of IP Address Archiving	Order No. 34 of the Former Ministry Information Industry	8 February 2005	20 March 2005
Measures on the Administration of Internet Information Services	Order No. 37 of the State Council Information Office and the Former Ministry of Information Industry	25 September 2005	25 September 2005
Measures for the Administration of Internet E-mail Services	Order No. 38 of the Former Ministry Information Industry	25 September 2005	25 September 2005
Regulation on the Administration of Visual and Audio Program on Internet	Order No. 56 of the State Administration of Radio, Film and Television and the Former Ministry of Information Industry	20 December 2007	31 January 2008
Catalogue of Telecommunications Services	Order No. 73 of the Ministry of Information Industry	21 February 2003	1 April 2003

Source: Information provided by the Chinese authorities.

187. The *Catalogue of Telecommunication Services* places internet services providers (ISPs i.e. providers of access) and internet content providers (ICPs) into the category of value-added telecommunication services. Pursuant to Article 7 of the Regulations on Telecommunications (Order No. 291 of the State Council), internet access service providers must obtain a business licence from the telecom administration authority, classifying them either as internet data centre (category one of value-added telecommunication services) or as internet access service (category two of value-added telecommunication business).

[153] Article 17 of the Regulations on Telecommunications (Decree No. 291 of the State Council, 25 September 2000, effective the same date) and Article 5 of the Provisions on Administration of the Interconnection of Public Telecommunications Networks (Order No. 9 of the Former Ministry of Information Industry, 10 May 2001, effective the same date).

188. The catalogue further divides internet content providers into "operational ICP" (pursuant to Article 3 of the Measures for Administration of Information Service via Internet, a supplier of "services and activities such as providing paid information or web design to Internet users via the Internet") and "non-operational ICP" (a supplier of "services and activities of providing Internet users with free public and commonly shared information without charges via the Internet").

189. Internet providers are subject to several layers of regulation. If foreign funded they first have to comply with Provisions on the Administration of Foreign-funded Telecommunications Enterprises (Decree No. 534 of the State Council). The last revision of these provisions, in 2008, simplified the requirements and procedures of examination and approval, notably by suppressing the requirement of a feasibility study report, and lowered the minimum registered capital of telecommunications enterprises (for basic telecommunications services nationwide or beyond a single province, autonomous region or municipality directly under the central government from ¥2 billion to ¥1 billion, and within a province, autonomous region or municipality directly under the central government from ¥200 million to ¥100 million).

190. Internet access services and information services business (including Internet information services) belong to the second category of value-added telecom business in China's Classification of Telecommunications Business. Information services belongs to "online information and database retrieval business", which are covered by China's WTO commitments. Therefore, foreign-funded enterprises may apply for business in accordance with the requirements of, *inter alia,* the Provisions on Administration of Foreign-Funded Telecommunications Enterprises, the Measures for Administration of Telecommunications Business Licence, and the Measures for Administration of Internet Information Services.

191. Certain forms of internet activities (news websites, internet audiovisual programme services, operating sites offering "internet-surfing services", as well as "culture-related businesses" on the internet (music excluded)) are classified in the "prohibited" category by the 2011 *Catalogue on the Guidance of Foreign Investment Industries*.

192. Internet providers need to apply for a licence. Licensing of ISPs and operational ICPs is covered by the Administrative Measures for the Licensing of Telecommunication Business Operations and for non-operational ICPs by the Measures for the Archival Administration of Non-operational Internet Information Services (Order No. 33 of the Former Ministry of Information Industry). Regarding licensing procedures, the Regulations on Telecommunications, implements a system of permits for the operation of telecommunications business. Operation of value-added telecommunications services covering an area across two or more provinces, autonomous regions and/or municipalities directly under the central government requires examination and approval by the State Council's department in charge of the information industry and a "Cross-regional Value-added Telecommunications Service Operating Permit". Operation of value-added telecommunications services covering an area within one province, autonomous region or municipality directly under the central government requires examination and approval by the telecommunications administration authority of the province, autonomous region or municipality directly under the central government and a "Value-added Telecommunications Service Operating Permit".

193. Internet content providers are subject to the Measures for Administration of Information Service via Internet and to the Regulations on Telecommunications, and their implementing regulations, the Measures for the Archival Administration of Non-operational Internet Information Services, and the Administrative Measures for the Licensing of Telecommunication Business Operations for operational internet information providers only for the latter.

194. In addition, pursuant to relevant provisions of the Measures for Administration of Information Service via Internet, engagement in internet information services in relation to news, publication, education, medical care, drugs, medical instruments, etc. is subject to review and approval by the relevant competent authority, pursuant to laws, administrative regulations, and relevant provisions of the State, and to legal review and approval by the relevant competent authority before application is made for a business licence or record-filing formalities are undertaken.

195. The activities of internet content providers are regulated by different regulations issued by specialized authorities depending on the nature of the services provided.

196. For news information services, the Provisions on the Administration of Internet News Information Services (Order No. 37 of the State Council Information Office and the Ministry of Information Industry) define the conditions of establishment of internet news information service providers, the application materials to be submitted, the examination and approval procedures, the codes of conduct applicable, the government supervision and administration measures, and the related legal responsibilities. In addition, the Measures for Administration of Information Services via Internet regulate the information service activities offered to internet users, distinguishes commercial and non-commercial internet information services, and stipulate provisions on the related market-access criteria, the procedures of administrative licence, the rights and obligations of service providers and the legal liabilities of illegal acts.

197. The Measures for the Administration of Internet E-mail Services (Order No. 38 of the Ministry of Information Industry) apply to the provision of internet e-mail as well as access services to internet e-mail services and the transmission of internet e-mails. They require the provider of such services to hold a permit for the operation of value-added telecommunication services or to perform the procedures for archival filing of non-operational internet information services. In addition, these Measures stipulate the codes of conduct, the related prohibited acts, the report handling mechanism and the legal responsibilities of internet e-mail service providers and telecommunication service providers that offer access services to internet e-mail services.

198. The Management Provisions on Electronic Bulletin Services in Internet (Order No. 3 of the Ministry of Information Industry) regulate the publication by online subscribers of information on the internet in an interactive form, such as bulletin boards, whiteboards, discussion forums, chat rooms, and message boards. They stipulate that anyone engaged in the provision of internet information services that wishes to launch electronic messaging services must submit a dedicated application, and stipulate conditions and procedures of examination and approval as well as rules of behaviour to be observed by the providers of electronic messaging services. For internet electronic messaging services the dedicated application procedure was cancelled and changed into the licensing system of internet information services by the promulgation of Decision of the State Council on Issuing the Fifth Batch of Administrative Examination and Approval Items Which are Cancelled and Those Which are Decentralized to the Lower Level (Guo Fa [2010] No. 21) issued on 4 July 2010. Engagement in internet information services and intended electronic bulletin services is subject to review and approval by the special administrative authority (i.e. the National Internet Information Office) for electronic bulletin service contents.

199. The Interim Provisions on the Administration of Internet Publication (Order No. 17 of the General Administration of Press and Publication and the Ministry of Information Industry) define the notion of internet publication and stipulate the examination and approval conditions as well as materials to be submitted so as to engage in internet publication business, the rights and obligations of internet publishers, and the legal liabilities of related illegal acts.

200. The Administrative Provisions on Internet Audio-Visual Program Services (Order No. 56 of the State Administration of Radio, Film, and Television and the Ministry of Information Industry) define internet audio-visual programme services, the regulators of internet audio-visual programme services and their responsibilities, the application conditions and materials to be submitted to be engaged in internet audio-visual programme services, the subject and procedures of examination and approval, the service regulations, the rules on the protection of users' rights and interests, and the related legal responsibilities, etc.

201. The Ministry of Industry and Information (MII) promulgated on 29 December 2011 the Several Provisions on Regulating the Market Order of Internet Information Services, which entered into effect on 15 March 2012. These provisions deal with competition (prohibition of unfair practices among website operators, rules on the bundling/unbunding of software), and consumer protection (users' rights, consent required from consumers before downloading software, rules on pop-up window advertisement, protection of users' personal data, information security, and complaint process).

202. Foreign presence in the telecommunications services sector remains extremely marginal: up to April 2011, 25 licences for value-added telecommunication services had been granted to foreigners (60 applications were received and 42 completed the first stage of the licensing process: "Validation Opinions on Foreign Investment in Telecommunications Business") compared with 23,259 licences delivered to Chinese citizens or companies (90% of them privately owned). Foreign-funded enterprises are virtually all (23 of the 25) concentrated in the sub-market of cross-regional value-added telecommunications services where they represent 1.1% of the total of the 2,087 companies licenced, compared with 106 state-owned enterprises (85.08% of the total) and 1,958 private Chinese-owned companies (93.82% of the total).

203. For basic telecommunications services, no application for licence has been received by the Chinese authorities from foreign operators.

204. The planned universal services fund has not yet been established.

(iv) Transport

(a) Maritime transport services

Market structure

205. In 2010, around 90% in volume of China's international cargo was carried by sea. This represented a freight volume of 581 million tonnes or 4,599.9 billion tonne-kilometres, up from 517 million tonnes or 3,952.4 billion tonne-kilometres in 2009. Maritime exports and imports amounted respectively to 69% and 61.8% of the total value of exports and imports (US$1,088.6 billion and US$861.1 billion), up from 67.9% and 61.7% in 2009 representing US$815.7 billion and US$620.7 billion. The difference between volume and value can be explained by the intermodal share of air cargo transport, which carries low volume high value goods, and the differences between intermodal maritime export and import shares by the fact that China imports a lot of raw materials in bulk and exports a lot of medium to high-value manufactured goods in containers.

206. Domestic maritime trade (cabotage), a segment reserved to 100% Chinese-owned companies flying the Chinese flag, represented 1,323 million tonnes or 1,689.3 billion tonne-kilometres in 2010 compared with 1,104 million tonnes and 1,339.9 billion tonne-kilometres in 2009.

207. As of 1 January 2011, China had 2,044 vessels over 1,000 gross tonnes registered under its national flag, (representing 46,207,468 dead weight tons, DWT) of which 1,136 vessels were deployed internationally (21,280,000 DWT), compared with 2,024 vessels (41,026,075 DWT) and 1,069 vessels (18,100,000 DWT), respectively, as of 1 January 2010.

208. China is about to renew its Ad hoc tax-Free Registration Policy for the Chinese flag-of-convenience ship Program for the 12th Five-year Plan period (2011-2015), in a bid to attract Chinese flag-of-convenience ships to register in China. According to UNCTAD statistics, as of 1 January 2010, there were 1,609 vessels of this kind representing a tonnage of 63,326,314 DWT. The two fleets taken together make China the world's third maritime nation by tonnage, after Greece and Japan, a rank it already had in 2010.

209. Throughput in all of China's top ten ports grew between 2009 and 2010 (Table IV.15).

Table IV.15
Top ten above-scale goods seaports in terms of throughput, 2009-10
(10,000 tonnes and %)

Rank	Port	2009	2010	Year on year growth (%)	Share of throughput (%)
1.	Ningbo-Zhoushan	57,684	63,300	+9.7	7.8
	Ningbo	38,385	41,217	+7.4	5.1
	Zhoushan	19,300	22,084	+14.4	2.7
2.	Shanghai	49,467	56,320	+13.9	7.0
3.	Tianjin	38,111	41,325	+8.4	5.1
4.	Guangzhou	36,395	41,095	+12.9	5.1
5.	Qingdao	31,546	35,012	+11.0	4.3
6.	Dalian	27,203	31,399	+15.4	3.9
7.	Qinhuangdao	24,942	26,297	+5.4	3.2
8.	Tangshan	17,559	24,609	+40.2	3.0
9.	Rizhao	18,131	22,597	+24.6	2.8
10.	Yingkou	17,603	22,579	+28.3	2.8
	Total	697,159	810,180	+16.2	

Source: Information provided by the Chinese authorities.

210. The ranking provided by the Chinese authorities covers all type of merchandise handled, including bulk shipment of oil, grains, and coal. The ranking for container shipment is slightly different (Table IV.16). In 2010, Shanghai port became the world's leading container port by throughput, before Singapore. The ports of Shenzhen (No. 4), Ningbo (No. 6), Guangzhou (No. 7), Qingdao (No. 10), Tianjin (No. 14), Xiamen (No. 19), Lianyungang (No. 29), and Yingkou (No. 35) also appear in the list of world top 50 container ports by throughput in 2010, established in September 2011 by the magazine *Containerization International*. In spite of the economic crisis, the growth of throughput remained at two digits.

Trade regime

211. The Ministry of Transport (MOT) is responsible for drafting and formulating shipping and port policies. The overall objective of the polices is to open up the market gradually in conformity with WTO commitments, promote full competition in international shipping markets, and constantly improve China's competitiveness in the sector. China has four levels of trade regulation of maritime transport (GATS commitments, free-trade agreements, other preferential regimes, applied regime *erga omnes*).

Table IV.16
Top ten above-scale container seaports in terms of throughput, 2009-10
(10,000 TEU and %)

Rank	Port	2009	2010	Year on year growth (%)	Share of throughput (%)
1.	Shanghai	2,500	2,907	+16.3	20.0
2.	Shenzhen	1,825	2,251	+23.3	15.4
3.	Ningbo-Zhoushan	1,050	1,315	+25.2	9.0
	Ningbo	1,042	1,300	+24.8	8.9
	Zhoushan	8	14	+78.8	0.1
4.	Guangzhou	1,120	1,255	+12.0	8.6
5.	Qingdao	1,026	1,201	+17.0	8.2
6.	Tianjin	870	1,009	+15.9	6.9
7.	Xiamen	468	582	+24.4	4.0
8.	Dalian	458	526	+15.0	3.6
9.	Lianyungang	303	387	+27.7	2.7
10.	Suzhou	254	334	+31.6	2.3
	Total	12,208	14,571	+19.4	

Source: Information provided by the Chinese authorities.

212. Regarding cabotage traffic, at present, China imposes strict restrictions on, and prohibits, in principle, foreign-funded companies and foreign ships from engaging in domestic cabotage traffic (including the onward forwarding of international cargo (international relay). However after undergoing registration formalities, foreign shipping companies may transport self-owned or leased empty containers between coastal ports in China. While the legislation foresees the possibility of granting waivers, none has granted.

213. China's GATS commitments regarding international passenger and freight transport contain no restrictions for mode 1 and 2[154], and conditions the establishment of a company to fly the Chinese flag on the establishment of a joint venture with foreign participation limited to 49%, and on the appointment of the chairman of the board of directors and of the general manager by the Chinese side. China has no commitments regarding other forms of commercial presence i.e. on the onshore establishment of maritime transport operators. However, pursuant to China's Article II MFN exemptions, parties concerned may, through bilateral arrangements, establish wholly foreign-funded companies to provide daily agent services for ships owned or operated by the investors, in accordance with Chinese laws and regulations regarding wholly foreign-funded companies. In addition, the Notice on Strengthening the Administration Work on the Examination and Approval of Wholly Foreign Owned Shipping Companies (Jiao Shui Fa [2011] No. 40), issued on 15 August 2011 allowed the establishment of wholly foreign-owned shipping companies in open port cities where they have stable sources of cargo and passengers. After a full year in operation and having paid up its registered capital, a foreign shipping company may establish branches in open port cities where it has stable sources of cargo and passengers. According to the Chinese authorities, the absence of commitments for "other form of commercial presence" is because China wants to retain the possibility to reciprocate or retaliate in cases where its own maritime transport operators face discrimination or are denied access for their commercial presence abroad.

214. By end 2010, nearly 150 Chinese and foreign international shipping companies had obtained operations qualifications for international liner shipping, in accordance with the Regulations of the

[154] Since 2008, China and Chinese Taipei have agreed to open some of their ports to allow direct maritime traffic between them. This traffic remains closed to third parties.

People's Republic of China on International Ocean Shipping, and were carrying out international liner shipping business in China. Among them, 105 are international shipping companies with overseas registration. In addition, 41 international shipping companies with overseas registration set up as wholly foreign-funded shipping companies in China.

215. China's free-trade agreements with New Zealand, Singapore, Pakistan, Peru, and Chile contain commitments identical to the GATS (by cross-reference for the latter). The FTA with ASEAN does not contain any maritime transport commitments. The Closer Economic Partnership arrangements with the Hong Kong and Macao SARs allow shipping service providers from the Hong Kong and Macao SARs to establish wholly owned shipping companies in mainland China for other form of commercial presence. In addition, shipping service providers from the Hong Kong and Macao SARs are allowed to use liner vessels to freely move empty containers that they own or rent between ports in mainland China, so long as customs formalities are completed.

216. Regarding non-FTA preferential regimes, China has filed two MFN exemptions regarding international freight and passenger transport. The first covers bilateral agreements through which "the parties concerned may establish entities to engage in usual business in China either as joint ventures or wholly owned subsidiaries subject to the Chinese laws on joint ventures and on foreign capital enterprises for ships owned or operated by carriers of the parties concerned". At present, China allows shipping companies registered in countries or regions that have bilateral maritime freight agreements with China to establish wholly owned subsidiaries in China to provide daily agent activities for vessels owned or operated by their investors. China has signed bilateral maritime shipping agreements with more than 60 countries/regions, including the United States, the European Union, and other major maritime transport countries/regions. The second MFN exemption covers cargo-sharing agreements with Algeria, Argentina, Bangladesh, Brazil, Thailand, the United States, and Democratic Republic of Congo (Zaïre). However the maritime agreement with the United States no long includes cargo reservations (since 2003).

217. In terms of the applied regime, the bilateral cargo reservations have never been implemented, nor has the cargo reservation foreseen by the UN Liner Code of Conduct for Liner Conferences, to which China is party. There are also no unilateral cargo reservations, including on food aid and on EXIM bank financed cargo. China applies national treatment regarding subsidies and leaseback shipping fund schemes. The legislation for establishing a shipping company to fly the Chinese flag reflects the GATS commitments, undertaken on a status quo basis.

218. Regarding competition policy for liner services, liner conference agreements, operation agreements, and freight-rate agreements involving Chinese ports that are signed among international shipping operators engaged in international liner transportation, must be submitted to the Ministry of Transport for the record.[155] The liner-freight rates must be submitted (and reported) in the required format. The Shanghai Shipping Exchange is the organ designated by the Ministry of Transport for freight-rate filing and registration. International shipping operators must follow the valid, registered freight rates. Liner trade conference and freight-rate agreement organizations are required to appoint liaison organs and representatives within China to establish a valid consultation mechanism with the shippers or shipper organizations within China.[156] In 2008, China formulated the Anti-monopoly Law to ban monopoly agreements in principle; it excludes other circumstances specified by laws and the

[155] According to the International Maritime Transport Regulations of the People's Republic of China promulgated in 2002, and the Announcement on the Implementing Rules of the International Container Liner Freight Filing, promulgated by the Ministry of Transport in 2009.

[156] According to the Announcement on Strengthening the Supervision and Control of Liner Trade Unions and Freight Rate Agreements issued by the Ministry of Transport in 2007.

State Council, including provisions on liner conference stipulated in the International Maritime Transport Regulations.

219. China has neither GATS nor FTA commitments on rental of vessels with crew; maintenance and repair of vessels; and supporting services for maritime transport, but currently applies no restrictions on these subsectors. China has no commitments on pushing and towing services, which are reserved, as part of cabotage, to 100% Chinese-owned companies flying the Chinese flag. At present, China has strict restrictions, and a prohibition in principle, on foreign-funded companies and foreign vessels engaging in pushing and towing services. However, some individual ports have foreign shareholders, which implies the existence of some foreign investment in the area of pushing and towing services.

220. For maritime cargo handling China's GATS commitments consist of a "none" for mode 2 and a limitation to joint venture with foreign majority allowed for mode 3. The FTAs with New Zealand and Singapore, Pakistan, Peru, and Chile are identical to the GATS (by cross-reference for the latter). The FTA with ASEAN does not contain any commitments regarding this type of service, while the Closer Economic Partnership agreements with Hong Kong, China and Macao, China allow wholly owned enterprises. In terms of applied regime Article 5 of the Port Law of the Republic of China of 28 June 2003 encourages economic organizations and individuals "at home and abroad" to invest in construction and operations of ports, and the 2011 *Catalogue for the Guidance of Foreign Investment Industries* classify construction and management of public port dock facilities in the "encouraged" category, without mentioning ownership conditions. In practice wholly owned subsidiaries are allowed and numerous; most container terminal companies operating in China have foreign investors among their shareholders. Investors in large facilities include: Hong Kong, China's Hutchison Whampoa Holding; Denmark's AP Moller Terminals; Singapore's PSA; United Arab Emirates' Dubai port world; Switzerland's Mediterranean Shipping Company; Japan's NYK in; Spain's Dragados; and there are numerous other foreign investors in smaller facilities.

221. For customs clearance services and for container depots and stations China's GATS commitments as well as China's FTA commitments with New Zealand, Singapore, Pakistan, Peru, and Chile (by cross-reference for the latter) allow joint venture with foreign majority. The CEPAs with the Hong Kong and Macao SARs allow the establishment of wholly foreign-owned enterprises to operate international shipping container depots and stations, or to provide shipping agency services for vessels that are owned or operated by their parent companies, including customs clearance and inspection declaration.

222. China's GATS and FTA commitments with New Zealand, Singapore, Pakistan, Peru, and Chile (by cross-reference for the latter) for maritime agency services consist in a "none" for modes 1 and 2 and in a limitation to joint venture with foreign ownership limited to 49% for mode 3. The CEPA with the Hong Kong and Macao SARs allow wholly foreign-owned shipping companies to provide daily agency services for shipping transport between Hong Kong and Class II ports in Guangdong Province operated by Chinese mainland vessels that are leased by their parent companies. For enterprises providing third-party public ship agency services, the Chinese mainland/Chinese side is still required to hold the majority share. In terms of the applied regime, maritime agencies are classified in the 2011 *Catalogue for the Guidance of Foreign Investment Industries* in the "restricted" category, with the indication that the Chinese side should hold the majority of the shares.

223. China has undertaken additional commitments under the GATS on access to/use of, on reasonable and non-discriminatory terms and conditions, for all the nine ports services listed in the

maritime model schedule.[157] Commitments in the FTA with New Zealand, Singapore, Pakistan, Peru, and Chile (by cross-reference for the latter) are similar. The Closer Economic Partnership agreements with Hong Kong, China and Macao, China, and the FTA with ASEAN do not contain commitments in that regard. In terms of the applied regime, for considerations of national security, navigation safety, and environmental protection, China applies compulsory pilotage for foreign vessels and grants equal treatment on pilotage fees. Since 2009, the activities of pilotage have been separated from the port enterprises to which they belonged, and have become public institutions with the function of providing public services for ships.

224. Port charges are decided by the MOC and the NDRC, taking into consideration cost and market competition; the charges are applied uniformly across the country. Port operators may set some fees, such as for warehousing and container yard services.

225. There are no GATS or FTA additional commitments on access to use of multimodal transport services but in terms of applied regime there are no restrictions "on the ability to rent, hire or charter trucks, railway carriages, ships or barges and related equipment, for the purpose of onward forwarding of international cargoes carried by sea, or have access to and use of these forms of transport services for the purpose of providing multimodal transport services" to quote the formulation used by the maritime model schedule.

226. In the Closer Economic Partnership agreements with Hong Kong and Macao SARs, China has undertaken commitments on a series of maritime transport services that do not appear in the two classic GATS classifications of maritime transport services (MTN.GNS/W120 and the maritime model schedule), i.e. ship chandling, container leasing, tugging, ship surveys, ship management, and chartering (only between the Hong Kong or Macao SARs and Guangdong province for the latter). Wholly foreign-owned enterprises from Hong Kong, China and Macao, China are allowed to offer routine agent services for vessels owned or operated by the investor, and are allowed to engage in international vessel management business.

227. In terms of the applied regime for these services, wholly foreign-owned enterprise are allowed to offer routine services for vessels owned or operated by the investor while international ship management services are allowed in the form of equity joint venture or contractual joint venture, with foreign ownership limited to 49%.

228. Table AIV.1 includes a summary of the trade regime for maritime transport services.

(b) Inland waterways transport

Market structure

229. Due to the progressive industrialization of western China, inland waterways transportation is an increasingly important mode of transport for China's development. Land transport (rail, road, and inland waterways) costs and bottlenecks can offset the competitive advantage of the western provinces' cheaper labour costs, which is why the Chinese authorities have made the development of this sector a national priority.

[157] (1) pilotage, (2) towing and the tug assistance, (3) provisioning, fuelling and watering, (4) garbage collecting and ballast waste disposal, (5) port captain's services, (6) navigation aids, (7) shore-based operational services essential to ship operations including communications, water and electrical supplies, (8) emergency repair facilities, and (9) anchorage, berth and berthing services.

230. The sector has experienced growth rates well above 20% during the last decade. The Yangtze river alone, is carrying the world highest river cargo volume, with 1.66 billion tonnes in 2011[158], and 6.48 million TEUs (twenty-foot equivalent units) of container traffic in 2009, compared, for instance, with the 25 million TEUs throughput at the port of Shanghai the same year.[159] The fleet serving this traffic comprises 145,000 vessels with an average size of 250 DWT per vessel. There are plans to standardize the average size of the vessels to 2,000 DWT by 2020 to cater for the expansion of the traffic.[160] The Yangtze river has 246 ports, 42 of which are on the main lines of the river; 22 of these ports are open to international traffic.

Trade regime

231. China has partial GATS commitments regarding inland waterways freight transportation (11.B.b, CPC 7222): for mode 1, "only international shipping in ports open to foreign vessels shall be permitted"; a "none" for mode 2; mode 3 remains unbound; and mode 4 subject to the horizontal commitments. The mode 1 entry corresponds to the applied regime *erga omnes* as described below. The China-Singapore, China-Pakistan, China-Peru and China-New Zealand agreements replicate the GATS commitments, while China's other FTAs (with ASEAN; Hong Kong, China; Macao, China; and Chile) do not mention this sector. Commitments undertaken by China on services auxiliary to all modes of transport in the GATS or FTA context (see Table AIV.6) do apply to services auxiliary to internal waterways transport.

232. The Ministry of Transport (M.o.T) is the administrative authority in charge of inland waterways transport services. "Construction and management of public dock facilities of ports" and "construction and management of storage facilities relating to transportation services" are classified in the 2011 *Catalogue for the Guidance of Foreign Investment Industries* in the "encouraged" category. Repair, design and manufacture of vessels (including subsection), 'water transport companies', and 'ship agency and ocean shipping tally' are all in the 'restricted' category.

233. International, including foreign, shipping lines may serve directly harbours upriver, notably in Nanjing, and offer direct international services there (e.g. the CVX intra-Asian loop of the Hong Kong based company Gold Star Lines in 2006). In principle, inland waterways traffic (i.e. cabotage traffic between two Chinese river ports or between a Chinese river port and a Chinese sea port) is reserved (both for freight and passengers), to 100% Chinese-owned companies flying the Chinese flag. However, foreign freight forwarders (e.g. TNT, APL logistics, OOCL logistics) and foreign shippers may, and do, freely charter local feeder services. A Switzerland based, Norwegian-U.S. owned company, Viking River Cruises, has run cruises on the Yangze river since 2003; it manages them through a catering contract, and markets them worldwide, while its local partner, New Century Cruises, provides the ship.[161]

234. A summary of the trade regime of the inland waterways transport sector in China is found in Table AIV.2.

[158] *Fairplay magazine*, 19 February 2009.
[159] *Containerization International*, May 2010.
[160] *Fairplay magazine*, 26 May 2007.
[161] *Fairplay Magazine*, 6 May 2004 and 10 June 2004; *Containerization International*, 21 August 2003; and online information. Viewed at: http://www.vikingrivercruises.com/.

(c) Air transport

Market structure

235. China's air transport market has grown steadily over the last 25 years with a compound average growth rate of 23% between 1900 and 2000 and of 91% between 2000 and 2010. In 2010, China's total turnover of passenger traffic, cargo, and mail ranked second in the world.

236. In terms of international traffic, in the summer and autumn of 2011 (IATA summer season 2011), 99 foreign airlines operated 1,960 scheduled passenger and cargo flights per week from 107 foreign cities to 32 Chinese cities (1,579 flights for passengers and 381 for cargo). In addition, 20 national airlines operate 2,236 international scheduled passenger and cargo flights per week from 39 Chinese cities to 124 cities in 55 foreign countries (1,933 flights for passengers and 303 for cargo).

237. In terms of domestic traffic, during the same period, 32 domestic airlines (including air cargo companies) arranged 45,484 domestic flights/week on 1,469 air routes (44,660 passenger flights and 824 cargo); cabotage, like virtually everywhere in the world, is reserved in China to domestic airlines. Air services currently serve 173 cities and 175 airports.

238. The size of the air transport industry in China is further described in Table IV.17.

Table IV.17
Air transport industry main indicators, 2009-10[a]

Indicator	Unit	2009	2010
Total transport turnover volume	10,000 tonne-km	4,270,726	5,384,490
Passenger capacity	10,000 persons	23,052	26,769
Total turnover of passenger traffic	10,000 person-km	33,752,354	40,389,960
Cargo capacity	10,000 tonnes	446	563
Cargo and mail turnover	10,000 tonne-km	1,262,307	1,788,982

a These figures reflect only the activities of Chinese airlines.

Source: Information provided by the Chinese authorities.

239. Forty-seven airlines are established in China; 38 are state owned and 16 have foreign equity participation (Table IV.18); 5 are listed as stock companies. Since 2009, CAAC has approved four private or private-holding airlines: ShunFeng Airlines; Yunnan Ying'an Airlines; Uni-top Airlines; and Changlong International Cargo Airlines. Changlong International Cargo Airlines is not yet in operation.

240. China is making considerable investments in its airport network. Between 2006 and 2010, 33 new airports were built, 33 retrofitted and extended and 4 re-located. There are 11 airports currently under construction and the five-year plan 2011-2015 foresees an additional 70 new airports (there are currently 175). In 2010, Beijing Capital international airport became the second busiest airport in the world after Atlanta, and Shanghai Pudong International Airport ranked third worldwide in terms of cargo; 21 Chinese airports have a turnover of over 10 million passengers per year.[162] However, many of the newly built airports in smaller cities are struggling financially (with

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[162] *Engineering and Technology Magazine*, "Most Chinese airports 'are losing money'". Viewed at: http://eandt.theiet.org/news/2012/jan/china-airports.cfm.

130 airports totalling a cumulative loss of ¥1,68 billion in 2010[163]) as the airport system is starting to feel competitive pressure from the high speed railway network.

Table IV.18
Foreign equity participation in Chinese airlines, 2011

Company name	Foreign shareholders	Shares (%)
Air China Limited	HKSCC Nominees Limited	17.00
	Cathay Pacific Airways Limited	18.10
	Public shares, H share and A share	12.04
China Eastern Airlines Corporation Limited	Overseas listed foreign share H share	32.20
China Southern Airlines Company Limited	H share public shareholders	17.89
China Cargo Airlines Ltd.	Concord Pacific Limited	16
	Singapore Airlines Cargo Pte Ltd	16
Shandong Airlines Co., Ltd.	Domestic listed foreign share	35.87
Yangtze River Express Airlines Co., Ltd.	China Airlines Ltd.	25
	Yangming Line (Singapore) PTE. Ltd.	12
	Wan Hai Lines (HK) Ltd.	12
	China Container Express Lin, Inc	6
Hainan Airlines Co., Ltd.	American Aviation	3.06
Air China Cargo Co., Ltd.	Cathay Pacific Airways Limited	25
	Brighten Star Technology Co., Ltd.	24
Great Wall Airlines Co., Ltd.	Singapore Airlines Cargo Pte Ltd	25
	Dahlia Investments Pte Ltd	24
Jade Cargo International Company Limited	Lufthansa Cargo	25
	DRG German Investment and Development Co., Ltd.	24
Shanghai Airlines Cargo International Co., Ltd.	Concord Pacific Limited	25
	Juniper Estate B.V.	20
Donghai Airlines Co., Ltd.	Hong Kong East Pacific (Holdings) Limited	25
China Express Airlines Company Limited	High Hero International Limited	25
	Tampines International Limited	24
Grand China Air Co., Ltd.	Starstep Limited	9.571
	Pan American Aviation Holding	3.998
	Union Trans-Atlantic Limited	0.666
	Perfect Star Investment Limited	0.400
Henan Airlines Co., Ltd.	Pingshan Co., Ltd.	25
	Mountains Trust	24
Grandstar Cargo International Airlines Co., Ltd.	Korea Air Lines (foreign-funded)	25
	Asiana Airlines (foreign-funded)	13
	Shinhan Corporation	11

Source: Information provided by the Chinese authorities.

Trade regime

241. The Civil Aviation Administration of China (CAAC, formerly the General Administration of the Civil Aviation of China) is the main regulator of the air transport sector. Its status was changed in March 2008 from an organization directly under the State Council to a State Bureau Administered by ministries or commissions. In March 2009, the 33 Offices of the Civil Aviation Operation Safety Supervision were renamed Administrations of Civil Aviation Operation Safety Supervision. In 2011, the number of Administrations was increased to 39. Between 2009 and 2011, China completed the final steps of the reform, launched in 2007, aiming at separating the operation of the air traffic control system from its regulation.

[163] Head of CAAC quoted in *Airport International News*, March 2011.

242. Since 2009, 1 administrative regulation and 13 department rules have been issued by the CAAC, and 9 department rules have been cancelled. All are of a technical nature except for two that have a trade relevance: the Supplementary Provisions on Foreign Investment in Civil Aviation No. IV, allows Hong Kong, China and Macao, China services providers to engage in aircraft maintenance and repair business in Mainland China, in the form of sole investment or controlling interest; and No. V allows Chinese Taipei services providers to invest in Mainland China aircraft repair and maintenance field in the form of a sole investment or joint venture, on the condition that the provider takes the form of a corporate body or in case of a joint investment by several providers that the main investor is a corporate body.

243. China's GATS commitments on aircraft repair and maintenance include a "none" for mode 2 (an important mode for this type of service), and allows commercial presence in the form of joint venture with Chinese controlling shares, and subject to an economic needs test. Two of the FTAs signed by China (China-Pakistan and China-Peru) contain commitments identical to those under the GATS. In four FTAs (with ASEAN, Chile, New Zealand, and Singapore), the requirement for an economic needs test is suppressed. Maintenance and repair of aircraft is in the "permitted" category in the 2011 *Catalogue for the Guidance of Foreign Investment Industries*. The applied regime, which is defined by paragraph 4, Article 6 of the Foreign Investment in Civil Aviation Regulations of 2002, is identical to GATS commitments, which are based on a status quo binding.

244. The trade regime for computer reservation services is somewhat complex. China's GATS commitments in this sector for mode 1 comprise three sections. The first section stipulates that foreign computer reservation systems (CRSs) that have agreements with Chinese aviation enterprises and a Chinese CRS, may provide services to Chinese aviation enterprises and Chinese aviation agents by connecting with the Chinese CRS. The second section states that a foreign CRS may provide services to representative offices and sales offices established in the destination cities in China by foreign aviation enterprises that have the right to engage in business under bilateral aviation agreements. The third section stipulates that direct access to and use of a foreign CRS by Chinese aviation enterprises and agents of foreign aviation enterprises is subject to approval by the CAAC. There are no restrictions for mode 2 while mode 3 remains unbound.

245. All FTAs have commitments identical to those in the GATS on mode 1, except the China-Chile agreement, under which mode 1 does not require Chilean computer reservation service providers to conclude an agreement with Chinese aviation enterprises in order to provide services to these enterprises and to aviation agents by connecting through a Chinese CRS. For mode 3, four FTAs (with ASEAN, Chile, New Zealand, and Singapore) allow the creation of joint ventures with foreign ownership limited to 49%, and an economic needs test, while mode 3 remains unbound in the FTAs with Pakistan and Peru.

246. In terms of the applied regime, computer reservation is in the "permitted" category in the 2011 *Catalogue for the Guidance of Foreign Investment Industries*. The applied regime reflects the GATS commitments under mode 1, i.e. as foreign computer reservation services may provide services to representatives offices and sales offices established in the destination cities in China by foreign aviation enterprises that have the right to engage in business under bilateral aviation agreements. No applications have been received so far by CAAC for access and use of a foreign CRS by Chinese aviation enterprises and agents of foreign aviation enterprises committed under 1(c) of the GATS commitments. The possibility of CRS joint ventures under four of the FTAs signed by China has not been used. A new draft regulation is being prepared with the aim of clarifying the conditions of authorization by the CAAC for direct access to and use of foreign CRSs by Chinese aviation

enterprises and agents of foreign aviation enterprises. This draft legislation is undergoing a process of consultation with interested parties.

247. China has no GATS commitments on selling and marketing of air transport services. The situation is similar for the FTAs with ASEAN, New Zealand, Singapore, Pakistan, and Peru. The China-Chile FTA contains commitments whereby there are no restrictions under modes 1 and 2, and for mode 3, foreign enterprises designated to operate by the relevant bilateral air services agreement may establish offices in China. The applied regime *erga omnes* allows commercial presence only in the form of representatives offices.

248. Providers from Hong Kong, China and Macao China benefit from preferential provisions: the right to set up wholly owned air transport sales agencies with national treatment for the registered capital and for banking guarantees; no preliminary vetting by local representative offices of the China Air Transport Association; and the right to sell tickets on domestic routes.

249. China has no GATS commitments on air transport services not explicitly mentioned in the GATS air transport annex, but has several FTA commitments. The China-Chile FTA contains a commitment on airport operations services with a "none" for modes 1 and 2 and "unbound" for mode 3. The CEPAs with Hong Kong, China and Macao, China contain extensive commitments regarding airport operation services: services suppliers from Hong Kong, China or Macao, China are allowed to provide contract management services for small and medium airports, with a contract limited to 20 years, in the form of cross-border supply, contractual joint ventures, equity joint ventures or wholly owned operations. They are also allowed to provide, through the same legal forms, airport management training and consultation services.

250. In terms of the applied regime since 2009, no changes have been made to the structure regulating auxiliary services. The Regulation on the Administration of Civil Airports, issued on 1 July 2009, defined the respective obligations of the airport management body, the airlines, and other airport-stationed units; the Code of Conduct for operating businesses like retail, catering, and aviation ground services etc.; as well as the qualifications and the Code of Conduct for fuelling services companies.

251. The construction and management of civil airports are classified in the "encouraged" category of the 2011 investment catalogue, with the condition that the Chinese partner shall hold the majority of the shares. There are several joint ventures with substantial foreign shares involved in the management of Chinese airports, for example: Frankfurt Airport (Fraport) had a 24.5% share in Xian airport; the joint venture between Shanghai Airport Authority (SAA) and the Airport Authority of Hong Kong (AAHK), and there are numerous consultancy projects, for instance those of Changi airport with Chongqing, Qingdao, and Chengdu airports.

252. For ground-handling services, the China-Chile free-trade agreement contains commitments with "none" for modes 1 and 2, and commercial presence allowed in the form of joint ventures with foreign ownership limited to 49%. Some bilateral air services agreements also have preferential clauses on ground handling, e.g. the China-United States bilateral air services agreement.[164] A new draft regulation aimed at further liberalizing ground-handling services is being prepared. No information is available on its timetable or content.

253. Regarding specialty air services, the China-Chile FTA contains commitments with "none" for modes 1 and 2 and "unbound" for mode 3. In terms of the applied regime, general aviation companies

[164] ICAO WASA database (WASA).

for agriculture, forestry, and fishery are classified in the "encouraged" category of the 2011 investment catalogue but limited to equity or contractual joint ventures, while general aviation companies engaging in photographing, prospecting, and industry are classified in the "restricted" category, with the condition that the Chinese partner must hold over 50% of the shares.

254. Establishment of airlines transportation companies is still classified by the 2011 *Catalogue for the Guidance of Foreign Investment Industries* in the "encouraged" category, with the condition that the Chinese partner must hold the majority of the shares. Since 2002, foreign investors in all-cargo, all-passenger, or combined airlines in China have been allowed to hold 49% of the capital, while the individual shareholding of a foreign investor and its affiliates must not exceed 25%.[165] Foreign investors have established some joint ventures under these provisions.[166] In addition, some passenger airline transportation companies, like Air China Limited, have issued H shares in Hong Kong, China.

255. Allocation of routes for domestic air transport services is regulated by: the Provisions on Domestic Route Operating Permit of Civil Aviation of China (CAAC Order No. 160), the Procedures for Domestic Route Operating Permit of Civil Aviation of China, Notice on Further Regulation of the Cabotage Flight Slot (CAAC Notice No. 102 [2009]), the Notice on Further Regulation of the Supervision of Interim Operating Flight Slot of Overtime Charters of Domestic Routes (CAAC Notice No. 1 [2010]), the Notice on the Further Reform of the Supervision Measures of Domestic Operating Permits and Flights (CAAC Notice No. 16 [2010]) and the provisions on the Administration of Civil Air Transport of Dangerous Goods (CCAR-276). These rules institute a two-tier system.

256. The air route operation licences and scheduled flights among the four airports of Beijing, Shanghai, and Guangzhou are subject to approval and management by the Civil Aviation Administration of China. Air routes and scheduled flights among other domestic airports are subject to registration management, where application, preliminary review, acceptance and publication is managed via internet via the Flight Information Management (Monitoring) System of the Civil Aviation of China at the level of the respective CAAC regional administrations concerned. An airline benefiting from a new route is protected by an exclusivity of two years including on the individual legs constituting the route.

257. A major reform has taken place with regard to price setting for domestic airlines. Under a decision of the CAAC and the National Development and Reform Commission, as of 1 June 2010, prices of first class and the business class tickets on the domestic civil aviation routes are fully liberalized. Specific prices are now determined by the airlines. For international traffic, the Supervisory Regulations on International Air Fares apply by default if the pricing clause of the relevant bilateral air services agreement (BASA) does not stipulate otherwise, e.g. by a free-pricing clause. Under these regulations, carriers must declare their prices 60 days in advance of implementation; the CAAC decides whether to approve the proposed price based on prevailing international prices, market conditions, relevant exchanges rates, and related state policies.

[165] WTO document S/C/M/89, 19 November 2007. According to Article 6 of Order 110, "where foreign investors invest in civil airports, the Chinese party shall take the relatively holding position. Where foreign investors invest in public air transport enterprises, the Chinese party shall take the holding position, and the proportion of investment made by one foreign investor (including its associate enterprises) may not exceed 25%. Where foreign investors invest in the general aviation enterprises engaging in business flight, air sight-seeing or that serving the industry, the Chinese party shall take the holding position; where they invest in the general aviation enterprises engaging in agriculture, forestry or fishery operations, the proportion of foreign investment shall be determined by both the Chinese and foreign parties through negotiation".

[166] For more information see WTO document S/C/W/270/Add.2, 28 September 2007, p. 314.

258. According to the Chinese authorities, there is no specific support or subsidy policy for domestic airlines except for support to national airlines opening feeder routes to connect remote areas or areas with backward economic development, so as to ensure universal service. The Chinese government also provides third-party war-risk liability insurance to all Chinese airlines. The coverage is for liability in excess of US$250 million up to US$1 billion per occurrence. The policy has to be renewed every year.

259. International scheduled passenger and freight transportation are regulated by bilateral air services agreements. Detailed data on China's aeropolicy until 2005 are contained in the "QUASAR profile" of China.[167] China's weighted air liberalization index was 5.5, and the high and low indexes of the agreements covered by the study were 0 and 14, respectively. Since that document was issued, China has amended or concluded 18 new agreements (Table IV.19).

Table IV.19
Liberalization of air transport services under China's bilateral air service agreements, 2011

Partner	Date	5th	7th	Cabotage	Coop	Designation	Withholding	Pricing	Capacity	Stat	ALI
Afghanistan	2006	Y	N	N	N	Multi	SOE	DA	PD	Y	10
Algeria	2006	Y	N	N	Y	Multi	SOE	DA	PD	Y	13
Myanmar	2006	Y	N	N	Y	Multi	SOE	DA	FD	Y	21
Saudi Arabia	2007	Y	N	N	Y	Multi	SOE	DA	PD	Y	13
Tajikistan	2007	N	N	N	N	Multi	SOE	DA	PD	Y	4
Zambia	2007	Y	N	N	Y	Multi	SOE	DA	PD	Y	13
United States[a]	2007	Y	Y	N	Y	Multi	SOE	DD	PD	Y	25
Angola	2008	Y	N	N	Y	Multi	SOE	DA	PD	N	13
Tanzania	2008	Y	N	N	Y	Multi	SOE	DA	PD	Y	13
PDR Korea	2008	N	N	N	N	Single	SOE	DA	PD	Y	0
Sudan	2009	Y	N	N	Y	Multi	SOE	DA	PD	Y	13
Chile	2009	Y	N	N	Y	Multi	SOE	CoO	FD	Y	24
Croatia	2009	Y	N	N	Y	Multi	SOE	DA	PD	Y	13
Russia	2010	Y	N	N	Y	Multi	SOE	DA	PD	Y	13
ASEAN	2010	Y	N	N	Y	Multi	SOE[b]	CoO	FD	Y	24/26
Switzerland	2010	Y	N	N	N	Multi	SOE/PPoB[c]	CoO	PD	Y	17
Cameroon	2010	N	N	N	Y	Multi	SOE	CoO	PD	Y	10
Georgia	2011	N	N	N	Y	Multi	SOE	CoO	PD	Y	10

a Amending protocol.
b With optionally CoI (Community of Interest clause) for the ASEAN parties.
c SOE for China, PPoB for Switzerland.

Note: "5th" stands for fifth freedom rights; "7th" for seventh freedom rights; "Coop" for cooperation clauses; "Stat" for statistics; "ALI" for Air Liberalization Index; "Y" for yes; "N" for no; "Multi" for multi-designation; "Single" for single designation; "SOE" for substantial ownership and effective control; "PPoB" for principal place of business; "DA" for double approval; "DD" for dual disapproval; "CoO" for country of origin; "PD" for pre-determination; and "FD" for free deternination.

Source: ICAO WASA data base; Science Po RITS database; and information provided by the Chinese authorities (ALI computed by the Secretariat).

260. China's recent bilateral agreements are notably more liberal than those in its 2005 QUASAR profile. Aside from the agreement with Korea PDR, they all have an ALI equal to or above 10, close to the high score recorded in the QUASAR profile (14), and largely above it for four agreements (Myanmar (21), United States (25), Chile (24), ASEAN (24/26)). Essentially, liberalization has been

[167] WTO document S/C/W/270/Add.2, "QUASAR profile" of China, pp. I.329 to I.336. On a scale ranging from 0 (classical "Bermuda II" agreements) to 50 (full common aviation market) for more details on the QUASAR methodology see document S/C/W/270/Add.1, pp. I.9 to I.21.

in clauses on fifth freedom rights (present in all new agreements except four); multi-designation (present in all new agreements except one); and cooperation on code-share, which is typical of "modern" agreements (present in all new agreements except four). In addition, there has been some (semi-)liberalization in "country of origin" pricing (in five cases) and in the rare but very liberal free determination of capacity (in three cases).

261. Domestic and overseas airlines are required to apply for slots to the slot-management departments of regional administration bureaux under the CAAC. The slot-management departments of regional administration bureaux then allocate slots in accordance with the Measures for the Administration of Civil Aviation Flight Schedule (Min Hang Fa No. 51 of 2010), and report the results to the CAAC Air Traffic Management Bureau. In accordance with relevant provisions of the Measures for the Administration of Civil Aviation Flight Schedule, the coordination and allocation of slots follows the principles of: openness, impartiality and fairness; historical slots priority, and priority of the continuation of previous season's schedules; benefiting the promotion of large portal aviation pivot construction, the principle of benefiting the promotion of the coordinated development of trunk line and branch line aviation; benefiting the promotion of the normal order of flight; good faith first; and coordination of main and auxiliary airports.

262. The rules also contain a "use or lose" rule if the slot is not used within a week, and prohibit exchanges of slots among airlines, in principle. Applications for airport slots by national and foreign airlines are processed according to the four principles of "impartiality, publicity, justice, and transparency".

263. A summary of the trade regime of air transport services is found in Table AIV.3.

(d) Rail transport services

Market structure

264. With its relatively lower environmental impact, minimal land take, and ability to serve densely populated areas, rail transport is particularly well suited to the needs of China's economic development. This explains why China is one of the rare countries in the world where classic mixed passenger-freight normal-speed inter-urban railways lines are still being built alongside dedicated freight lines and high-speed dedicated passenger lines. China has the world's longest and fastest high-speed railway network.

265. In 2010, the Chinese railway network comprised 91,178.5 km (corresponding to a railway network density of 95.0 km/10,000 square kilometres), of which 41.1% (37,487 km) double-track lines, and 46.6% (42,464 km) electrified lines. By contrast, in 2008, the total mileage of China's railway was 79,687.3 km, of which 36.2% were double track. The medium long-term plan for the development of the network decided by China's State Council in 2004 and reviewed and accelerated in 2008 foresees a 120,000 km network by 2020, of which 50% would be double track and 60% electrified. The objective is to serve all cities with a population over 200,000 inhabitants.

266. The first high-speed services on a dedicated passenger line, Beijing-Tianjin was opened in August 2008. A network of special railway lines for passenger traffic with a total mileage of over 16,000 km is to be built by 2020 in China. The new railway construction programme includes many inter-regional trunk lines, with passengers and cargo on the same line, so as to promote regional development and alleviate bottlenecks on rail transport. In particular, 12,000 km of lines will be built in western China, and the total railway network in these areas will exceed 50,000 km.

267. The existing network is also to be upgraded: 25,000 kilometres will be electrified, 19,000 kilometres double tracked, 1,066 stations reconstructed or built, and the rolling stock renewed and expanded. Dedicated freight lines, in particular lines dedicated to the transport of coal are also being upgraded. The Daqing railway line, built in 1985-92 for trains of 5,000 tonnes and an annual capacity of 100 million tonnes of coal, has been renovated to handle 20,000-tonnes trains and annual capacity of 400 million tonnes.

268. The volume of railway freight (including luggage) reached 3.5 billion tonnes in 2010 corresponding to 2,764.4 billion tonne-kilometres. Railway passenger traffic reached 1.7 billion persons corresponding to 876.2 billion person-kilometres, respectively.

269. China is also one of the world's largest urban rail transit markets (including metro, light rail, and trolley), as numerous cities are constructing or expanding their urban railway networks. At end 2011, 13 cities had an urban rail transit system with a total length of about 1,600 km. Meanwhile, 1,400 km are under construction. The total length of urban rail transit in China is expected to surpass 3,000 km in 2015.

Trade regime

270. The Ministry of Railways is the regulatory authority for inter-urban railway transport, and the Ministry of Housing and Urban-Rural Development is the competent department for urban rail transit planning and construction. The Ministry of Railways is both the regulator and the operator of the national railway network and carries out its operations through its railway enterprises and particularly its regional railways bureaux. However, the system is to be reformed with a view to separating the regulatory functions from the operational functions. The rail price-setting mechanism will be further reformed as will the mechanisms for investment in and financing of rail construction and for the subsidization of public rail transport services. In terms of investment and financing of railways, market access will be further opened to encourage private capital investment in the construction and operation of railways.

271. China has no GATS or FTA commitments on railway passenger transport, except in one FTA. The Closer Economic Partnership agreement with Hong Kong, China allows Hong Kong SAR services supplier to operate and manage the Shenzhen metro line 4 in the form of wholly foreign-owned operations.

272. Construction and management of metro and city light rail are classified in the 2011 *Catalogue for the Guidance of Foreign Investment Industries* in the "encouraged" category, with the condition that the Chinese partner must hold the majority of the shares. A new draft regulation on urban and suburban light rail is being prepared so as to encourage marketization and attract private and foreign investment in a sector largely regulated as a public government-owned and managed public utility. No information is available yet on its content or timetable.

273. Railway passenger transportation companies are still classified in the "restricted" category in the 2011 investment catalogue, with the condition that the Chinese partner must hold the majority of the share.

274. For freight transportation, China's GATS commitments consist of a "none" for modes 1 and 2, and allow commercial presence in the form of wholly foreign-owned subsidiaries. The FTAs signed by China with ASEAN, Singapore, New Zealand, Pakistan, Peru, and Chile (by cross-reference for the latter) echo the GATS commitments, while the Closer Economic Partnership agreements with Hong Kong, China and Macao, China do not contain any reference to the subsector.

275. Railways freight transport companies are still classified in the catalogue as "restricted" without limitation on foreign ownership.

276. Construction of railways, although part of construction services and not of railway transport services, has to be tackled together with railway transport, since, in practice the involvement of private and foreign investors is realized through companies in charge of both the construction and the management of the lines.

277. China's GATS commitments for railway construction are the same as for construction in general: wholly foreign enterprises are permitted but may only undertake four types of projects (wholly foreign-financed construction projects; construction projects funded by international financial institutions; Chinese foreign/jointly-constructed projects with foreign investment equal to more than 50% or projects with less than 50% but that are technically difficult for Chinese construction enterprises to implement alone; and technically difficult projects subject to the approval of provincial authorities).

278. The FTAs with ASEAN, Chile, New Zealand, Singapore, Pakistan, and Peru echo the GATS commitments. The closer Economic Partnership agreements with Hong Kong, China and Macao, China contain a complex set of preferential commitments essentially regarding qualifications requirements (see Table AIV.4).

279. The 2011 *Catalogue for the Guidance of Foreign Investment Industries* classifies the construction of railways, the construction of "grid of national trunk railways" and "feeder railways, local railways and related bridges, tunnels and ferries facilities", the "construction and management of metro city light rail" and the "comprehensive maintenance of infrastructure of high speed railways, special railway line and intercity line" in the "encouraged" category. In all cases the condition is that the Chinese partner must hold the majority of the shares, except for the "construction of feeder railways, local railways and related bridges, tunnels and ferries facilities" where equity joint-ventures and contractual joint-ventures are allowed without a ceiling on foreign participation.

280. China encourages private, including foreign, investment in the construction and operation of railways. In 2010, the State Council issued Several Opinions of the State Council on Encouraging and Guiding the Healthy Development of Private Investment (No.13 [2010] of the State Council). This text prescribes the following policy orientations: to push forward the study of the reform plan of the railways regime, to introduce market competition; to promote the diversity of investors; to encourage private investment participation in the construction of main lines, secondary lines, rail ferries, and station facilities; to explore the possibility of setting up investment funds for railways, to actively support operators to become corporatized and listed, and to broaden the scope of private capital access to railways construction. To operationalize this policy guidance, the Ministry of Railways is in the process of finalizing the Regulations on Railway Construction and the Regulations on Railway Transport, with a view to building an open, fair, and impartial market-access system and administration policies for broadening private investment, notably through the participation of insurance and social security funds, other institutional investors, and enterprises in joint-venture railway construction and operation.

281. By end 2010, 180 joint-venture railway companies had been set up throughout China. They procure freely through biddings. They do not receive subsidies and do not have the financial guarantee of the Chinese State or of the Ministry of Railways. These joint ventures account for around 10% of traffic, the bureaux of the Ministry of Railways account for the rest.

282. The 180 established joint-venture railway companies include the Suohuang railway- a joint venture of the Ministry of Railways and Shenhua Group, but exclude Baoshen railways, Shensuo railways and Dazhun railways, wholly funded by Shenhua Group. Three of these joint ventures involve foreign interests: the Jing-Hu High-Speed Railway Company, with the Bank of China Group Investment Limited (Hong Kong) holding 4.537% shares; the Jin-Yu-Lu Railway Transport Corporation, with Bank of China Group Investment Limited (Hong Kong) holding 14.45% shares, and the Guang-Shen Railway Company Limited which made a public offering of H shares in Hong Kong, China in April 1996, and whose American Depository Share was listed on the New York Stock Exchange in May 1996. At present, foreign shares in this company account for 20.2% of the total shares. There are three state-owned but publicly listed railways companies: Daqin railways, Guang-Shen railways, and Tielong Logistics.

(e) Road transport services

Market structure

283. The size of China's road freight transport market is commensurate with size of the country and its economic dynamism. In 2010, 11.33 million commercial road vehicles (among which 10.5 million goods vehicles – trucks and vans) carried domestic traffic of 30.53 billion passengers (corresponding to 1,502.08 billion passenger-kilometres), and 24.48 billion tonnes of merchandise (4,338.97 billion tonne-kilometres). All except passenger-kilometres traffic and passenger vehicles experienced two-digit growth year-on-year.[168]

284. As might be expected, the international road transport market appears relatively small compared with the domestic market: 7.8 million passengers (350 million passenger-kilometres) and 29.6 million tonnes (1.6 billion tonne-kilometres) for freight transport in 2010. Both tonnage (+90.4%) and tonne-kilometres (+65.8%) progressed strongly compared with 2009. International freight transport employs only 20,000 drivers, compared with a total of 17.4 million commercial drivers.

285. In terms of intermodal shares, 93% of passenger transportation and 76% of freight transportation was by road. In 2010, 24.55 million persons were employed in the road transport sector (excluding urban passenger traffic). Road freight transport businesses showed constant growth over the decade to 2008, when they numbered 6.1 million, while the number of passenger services enterprises diminished by half due to concentration and integration. The freight transport sector is not highly concentrated as over 85% comprise individual operators owning just one truck, without company status. Companies that own more than 100 trucks account for 4% to 8.5% of the total, depending of the sub-segment considered (special freight transport, container transport, heavy duty transport, dangerous goods transport). The passenger transport sector is somewhat more concentrated as most passenger transport companies own a fleet of between 10 and 49 passenger vehicles. However, concentration varies depending on the subsector (bus lines, taxi, coaches).[169]

Trade regime

286. China has made extensive GATS commitments on freight transportation by road in trucks or cars (CPC 7123/w120 11.E.b). There are no restrictions in modes 1 and 2, for market access or national treatment, and wholly owned subsidiaries are permitted under mode 3. There are no

[168] Number of passengers: +9.8%; passenger-kilometres traffic: +11,2%; tonnage of freight: +15%; tonne-kilometres: +16.7%; goods vehicles fleet: +15.8%; passenger vehicles fleet: +5.9%.

[169] International Road Transport Union (2009).

restrictions in mode 3 for national treatment, and mode 4 is unbound as indicated in the horizontal commitments for both market access and national treatment. There are no GATS commitments for road passenger transport nor for any of the other road-transport services (rental of commercial vehicles with operators, maintenance and repair of road transport equipment and supporting services for road transport services).

287. All the free-trade agreements signed by China replicate the GATS commitments for freight transport. The CEPAs with Hong Kong, China and Macao, China contain further commitments on road freight transport, namely the right for providers originating from those two Members to provide non-stop road freight transport services between Hong Kong or Macao and the Mainland and the right for Hong Kong or Macao-invested production enterprises to provide road freight transport services in Guangdong, subject to authorization by the provincial authorities.

288. In addition, some of these FTA contain commitments on other road transport services, such as part passenger transport, and service or maintenance and repair of vehicles.

289. This is the case in the FTAs with ASEAN, Singapore, and Pakistan, in which China has committed part of road passenger transportation CPC 71213, i.e. inter-urban regular transportation[170] (for market access: modes 1 and 2: unbound; mode 3: only in the form of joint ventures with foreign investment limited to 49% and economic needs test required; mode 4: unbound except as indicated in the horizontal commitments; for national treatment: modes 1 and 2 unbound; mode 3: none) as well as on part of maintenance and repair services (CPC 61120)[171], with a liberal regime (mode 1 and 2: none; mode 3: wholly owned foreign subsidiaries permitted).

290. The China-Peru FTA contains an identically drafted commitment on passenger transport but not on maintenance and repair of vehicles, while the China-New Zealand FTA has the same commitment in maintenance and repair as the three previously mentioned agreements but not on passenger transport. China-Chile does not contain any references to road transport services but China's GATS commitments on road transport are incorporated by reference in this agreement.

291. The CEPAs with Macao, China and Hong Kong contain extensive commitments regarding road passenger transport and services auxiliary to road transport, and the right for providers from Hong Kong, China and Macao, China to provide road transport passenger through wholly owned subsidiaries in the western areas of Mainland China; to set up joint ventures on the Mainland to provide inter-urban regular passenger transportation; to provide direct passenger bus services between Hong Kong or Macao and nine provinces; to set up wholly owned enterprises in Mainland cities to provide passenger public transport and hire-car services in those cities; and to establish passenger terminals and repair stations in Guangdong province subject to the approval of the provincial authorities. The CEPAs also contain commitments on "road freight transport station" but these services are not classified as support services for road transport (but as services auxiliary to all modes of transport); the same goes for "driver training" commitments (education services).

292. Commitments undertaken by China on services auxiliary to all modes of transport in a GATS or an FTA context (see Table AIV.6) apply to road transport.

[170] Defined as "interurban regularly scheduled highway passenger transportation by motor-bus, including passenger accompanying baggage transportation".

[171] Excluding CPC 8867 repair services not elsewhere classified of motor vehicles, trailers, and semi-trailers on a fee or contract basis.

293. The Ministry of Transport is the administrative authority in charge of road freight transport services. Road freight transport companies are classified in the 2011 *Catalogue for the Guidance of Foreign Investment Industries* in the "encouraged" category. "Cross border automobiles vehicles transportation companies" are classified in the "restricted" category.

294. China's internal applied regime for road freight transport appears liberal. There are no restrictions in the GATS sense nor any quantitative regulations on capacity or on prices (these still exist in many OECD countries).[172] The 20 November 2001 Provision on the Administration of Foreign Investment in Road Transport[173] stipulates that foreign investors may establish wholly owned subsidiaries or joint ventures in the sectors of road goods transport, road goods portage and loading and unloading, road goods storage and other supplementary services and vehicle maintenance relating to road transport.

295. Foreign investors also have the right to establish joint ventures in road passenger transport on the following conditions: at least one of the investors must have more than five years of experience in the road passenger transport business within China; the share of foreign investment must be limited to 49%; and 50% of the registered capital must be used in the construction or reconstruction of passenger terminals. The vehicles used must be of middle or upper level. For both freight and passenger transport the duration of the joint venture may not exceed 12 years but may be prolonged to 20 if more than 50% of the registered capital has been used in the construction of passenger and goods terminals. These conditions also apply to operators originating from ASEAN, Singapore, Pakistan, Hong Kong, China, Macao, China, and Peru. By end 2010, there were 3,852 road transport enterprises with foreign investment, a year-on-year increase of 34.5%; passenger transport enterprises had increased by 7.3% and freight transport enterprises by 39.8%.

296. International road transport is regulated by 11 bilateral agreements, with transport quotas determined annually and shared on a 50/50 basis.[174] These agreements also cover passenger transport. The characteristics of these agreements are broadly similar to those of the ECMT model agreement that prevails in Europe[175], except for prescribed routes, due to infrastructural constraints. China is also a member of three plurilateral agreements: the road transport between China, Kyrgyz Republic, and Uzbekistan (not yet implemented); the agreement between China, Kazakhstan, Pakistan, and the Kyrgyz Republic; and the Cross-Border Transport Agreement of the Greater Mekong Sub-Region (CBTA-GMS) between Laos, Viet Nam, Thailand, China, Cambodia, and Myanmar. The latter contains a multilateral quota that is not yet fully implemented. Similarly, while transit traffic is legally possible in the bilateral and the plurilateral frameworks, it remains largely non-existent.

297. The trade regime for China's road transport sector is summarized in Table AIV.5.

(v) Tourism

(a) Market structure

298. In 2010, China was the world's third tourism destination, after France and the United States, in terms of tourist arrivals, which rose to 55.7 million, up 9.4% over 2009. It ranked fourth after the

[172] For details on internal road transport regimes see WTO document S/C/W/324, pp. 17-21 and 57-64.

[173] Viewed at: http://www.asianlii.org/cn/legis/cen/laws/potaortswfi886/, see notably articles 2, 3, 6, and 16.

[174] These agreements have been concluded: Kazakhstan, Kyrgyz Republic, Russia, Mongolia, Uzbekistan, Tajikistan, Democratic People's Republic of Korea, Pakistan, Nepal, Laos, and Viet Nam.

[175] For details on the ECMT model agreement see WTO document S/C/W/324, pp. 22-26.

United States, Spain, and France in terms of receipts, with US$45.8 billion, up from US$39.7 billion in 2009 (+15.5%). The World Tourism Organization expects China to become the world's first tourism destination by 2020.

299. For outbound tourism, China ranked third in 2010, after Germany and the United States in terms of international tourism expenditure, with US$54.9 billion. This expenditure rose fourfold in just ten years, and grew by 26% compared with 2009, making China the world's fastest growing outbound tourism market. Overall, the Chinese outbound market represents 6% of the global outbound market.

300. China's lodging industry has developed considerably in the last 20 years, from a largely state-owned sector to a booming industry, fostered by economic growth and real estate development, and with private and foreign interests involved. It still has great potential compared with penetration rates in developed countries. It is dominated by middle/low-end accommodation, including stand alone, non-rated, non-chain hotels and guest houses, which have a combined market share of 95% (in terms of room numbers). Stars hotel account for 4.5% of total market supply (3.8% for 1 to 3 stars hotels, 0.7% for the 4 and 5 stars hotels) (Table IV.20).

Table IV.20
Structure and development of the tourism sector, 2000 and 2008

Hotel categories	2000		2008		Compound annual growth 2000-08 (%)
	Number	% of total	Number	% of total	
4 and 5 stars hotels	469	0.2	2,253	0.7	+22
1 to 3 stars hotels	5,560	2.3	11,846	3.8	+10
Branded economy hotels	23	0.0	2,805	0.9	+82
Non-chain hotels, guest houses[a]	231,748	97.5	298,989	95.5	+3
Total	237,800	100	315,893	100	+4

a No statistics are available from the National Tourism Administration of China for this category.

Source: National Tourism Administration of China, Euromonitor, Inntie.

301. Forecasters expect the largest growth to take place in the budget/economy chain hotel segment, which accounts for only 15% of the overall hotel sector in China, compared with 70% in the United States. China is said to have the second-largest hotel development pipeline in the world, second only to the United States. However, in certain areas, such as Beijing, Shanghai, and the coastal regions, there is some localized overcapacity, and in some cases occupancy rates are decreasing.

(b) Trade regime

302. The regulatory authority for tourism services is the National Tourism Administration.

303. China's GATS commitments for hotels and restaurants services consist in a "none" for modes 1 and 2, and allow commercial presence in the form of wholly foreign-owned subsidiaries. They also contain a mode 4 sector-specific entry whereby "foreign managers and specialists including chefs and foreign executives who have signed contract with joint venture hotels shall be permitted to provide services in China".

304. The CEPAs with Hong Kong, China and Macao, China and the FTAs with New Zealand, Singapore, Pakistan, Peru, and Chile (by cross-reference for the latter) replicate the GATS

commitments. The FTA with ASEAN does not contain any reference to hotels and restaurants nor to any tourism services. The GATS and FTA commitments reflect the applied regime and are based on status quo bindings.

305. The market share of foreign hotel chains is substantial in the luxury segment, at 60% for five-star hotels, but is much lower for the other segments, at 25% for four-star hotels and 14% for economy and budget chain hotels.[176] Foreign interests are virtually absent from the segment of individually owned hotels. Foreign presence does not necessarily take the form of wholly owned foreign subsidiaries, management agreements, franchise agreements, lease-operate agreements as well as joint ventures are also frequent.

306. China's commitments on travel agencies and tours operators services, comprise a "none" for modes 1 and 2, and allow wholly foreign-owned subsidiaries with no restriction on branching, and national treatment for registered capital. The commitments also include a mode 3 national-treatment restriction, whereby joint-venture and wholly foreign-owned travel agencies are allowed to engage in outbound tourism activities i.e. to organize tours or to book trips for Chinese citizens travelling abroad.

307. China's FTA commitments on travel agencies and tour operator services are somewhat heterogeneous. The agreement with ASEAN does not contain any reference to travel agencies and tour operators; the agreement with Chile reproduces only part of China's GATS commitments; the agreements with New Zealand and Singapore have commitments identical to the GATS; while the agreements with Peru and Pakistan include a full "none" for mode 3 in the market-access column. The Closer Economic Partnership agreements with Hong Kong China and Macao, China contains a series of preferential concessions for Hong Kong and Macao travel agencies and tour operators: travel agents from Hong Kong or Macao established in nine provinces and the municipalities of Beijing and Shanghai may organize group tours to Hong Kong and Macao, respectively, and their minimum entry requirements were lower than those generally applied at the time of signature. However, since 2007, these entry requirements have been the same for all WTO Members and based on the national-treatment principle. This was been confirmed in the Travel Agency Regulations promulgated in May 2009.

308. In terms of the applied regime, under the January 2009 regulations on travel agencies, China initiated the Interim Measures for the Supervision and Administration of the Pilot Operation of the Outbound Tourism Business by Sino-foreign Joint Venture Travel Agencies (No. 33 Order of the National Tourism Administration and the Ministry of Commerce), in August 2010, which authorized, on a pilot basis, the gradual opening to foreign-funded travel agencies of the business of outbound tourism for residents of China's mainland. In May 2011, the National Tourism Administration determined a first list of three Sino-foreign Joint Venture Travel Agencies for Chinese Citizens' outbound tour business: TUI China Travel Co. Ltd.; CITS American Express Business Travel; and JTB New Century International Tours. The results of this pilot programme will be evaluated, and if deemed successful, it will be extended to other foreign travel agencies through a licensing mechanism.

309. So far, 58 travel agencies have been licenced to operate in China.[177]

310. The Approved Destination Status (ADS) is a programme designed to facilitate group travel of Chinese tourists through the conclusion of consular and of other facilitating measures with partner

[176] CB Richard Ellis Research Asia (2009).
[177] WTO document S/C/W/344, 28 October 2011.

country or regions. Without this status, a country or region may not receive visits of such groups. However, according to the authorities, this status is granted on request and does not constitute a restriction but a facilitation measure. By May 2011, 140 countries or territories had been granted ADB, including 11 new destinations since China's previous TPR in 2009 (Papua New Guinea, Ghana, Micronesia, Cape Verde, Montenegro, Mali, Canada, United Arab Emirates, Ecuador, Guyana, and Dominica).

311. China has neither GATS nor FTA commitments on tour guides services except with Hong Kong and Macao SARs whose permanent residents with Chinese citizenship are allowed to take the relevant examination and to obtain tour group escort licences for outbound group tours and to be employed by travel agencies from Mainland China, Hong Kong, China and Macao, China that are allowed to provide outbound group services. This generic absence of commitments may be because this activity is reserved, in terms of the applied regime, to Chinese citizens who have obtained the relevant degree.

312. The trade regime for tourism services is summarized in Table AIV.7.

(vi) Environmental services

(a) Market structure

313. The importance of the Chinese market for environmental services is commensurate with the large population of the country and its rapid development. For instance, the number of urban waste-water-treatment plants grew almost six-fold between 1995 and 2005 (from around 100 plants to 764) and from 2005 to 2010 the market increased from ¥44.29 billion to ¥107.38 billon, corresponding to an annual compound growth rate of 19.5%.[178] By 2010, total industrial solid waste produced in all regions had reached 2.4 billion tonnes. The solid waste disposal market, including hazardous material disposal, is said to represent 11% of the world market, and amounts to US$10,061,040 million.[179]

314. Growth of this market is expected to exceed 30% in the coming years, as the Government invests massively (¥170 billion planned from 2011 to 2015, i.e. more than the double of the amount invested from 2005 to 2010)[180], and implements (for environmental services in general) a policy designed to attract private and foreign investors so as to diversify the type of operator, advance marketization, and import state-of-the art technologies. This policy is still being designed as environmental facilities were originally regulated like public utilities, largely municipality owned. For instance, the Beijing Urban Infrastructure Franchise Regulations, promulgated by the Beijing People's Congress Standing Committee in December 2005, allow for the franchise of sewage and solid waste disposal projects in such modes as build-operate-transfer (BOT). The Measures for Administration of Tianjin Municipal Utilities Franchise, promulgated in July 2005 by the Tianjin Municipal Government, allow foreign capital participation in franchising activities of municipal utilities, such as sewage treatment and waste disposal, in the mode of sole proprietorship, joint venture, or cooperation.

[178] Innovation Center Denmark (2009).
[179] Icon Group International (2004).
[180] *China Daily*/Xinhua, 29 April 2011.

(b) Trade regime

315. China's environmental services commitments under the GATS include sewage services, refuse disposal services, cleaning services of exhaust gases, noise abatement services, sanitation services, nature and landscape protection services, and other environmental protection services under the W/120 classification.

316. However, they exclude, horizontally, environmental quality monitoring and pollution source inspection. The regime is common to all these services: "unbound" for mode 1 except for consultation services; "none" for mode 2; commercial presence allowed only in the form of joint venture with foreign majority ownership.

317. FTA commitments are more liberal in the case of the agreements with ASEAN, Chile, New Zealand, Singapore, and Pakistan, which allow wholly owned-foreign enterprises under mode 3 (for only four services in the case of Pakistan: sewage, refuse disposal, cleaning of exhaust gas, and noise abatement). In the China-Peru FTA, the level of China's environmental services commitments is the same as in the WTO. In 2008, the Chinese Mainland signed Supplement V to the CEPAs with the Hong Kong and Macao SARs, stipulating that the Guangdong Province may approve the qualifications of Hong Kong or Macao service providers to establish environmental pollution control facility operation enterprises in Guangdong.

318. In terms of the applied regime, the 2011 *Catalogue for the Guidance of Foreign Investment Industries* classifies "construction and management of treatment plants for sewage, garbage, the dangerous wastes (incineration and landfill) and the facilities of environment pollution treatment" in the "encouraged" category. By contrast, construction and operation of gas, heat supply, and water drainage network in cities with a population of more than 500,000 people are classified in the "restricted" category, and requires the Chinese side to control shares. The Measures for Administration of Environmental Pollution Control Facilities Operation Qualification Licence, announced in November 2004 by the former State Environmental Protection Administration (SEPA Decree No. 23), contain no limit on foreign-funded enterprises engaging in the operation of professional categories of environmental pollution control facilities, such as domestic sewage, industrial waste water, dust removal, and desulfurization of industrial waste gas, industrial solid waste (except hazardous waste) and garbage.

319. According to China's WTO commitments, under mode 3 (commercial presence), foreign services providers are allowed to engage in environmental services only in the form of joint ventures, but the foreign investment may hold the majority of ownership. In practice, foreign-owned enterprises are already involved in environmental impact assessment services.

320. Table AIV.8 summarizes the trade regime for China's environmental services.

(vii) Postal and courier services

321. The amended Postal Law, which entered into force on 1 October 2009, established the rules on the universal postal service and the supervision and administration system for China's postal market. It provides that post administrations are responsible for the supervision and administration of postal enterprises and express delivery companies. At present, postal administrations consist of the Post Administration of the State Council and under its leadership, postal agencies of provinces, autonomous regions, and municipalities.

322. The newly formed China Post Group Corporation, a wholly state-owned enterprise, is committed to ensuring universal postal services, while also engaging in commercial operation of a competitive business. According to the Postal Law, correspondence (including letters and postal cards) delivery services within the scope prescribed by the State Council must be provided exclusively by postal enterprises. At present, the scope of postal enterprises' exclusive rights is being specified by relevant authorities. The state subsidizes the postal enterprises for the provision of universal postal services, which are defined as the delivery of correspondence, printed matters not heavier than 5 kg, and parcels not heavier than 10 kg each, and postal remittance. A universal postal service fund will be set up to support the provision of universal postal services. According to the 12th Five-Year Plan for Postal Services, the Administrative Measures on the Contribution, Use and Supervision of the Universal Postal Service Fund, as well as the Provisions on the Exclusive Operation Scope of the Postal Enterprises will be issued to complement the regulatory regime of the postal sector.

323. Development of express delivery services has been sustained and rapid; in the past five years, the average growth rate of income from express delivery business has been 19%. In 2010, express delivery services accounted for 45% of the total revenue of China's postal industry. According to the new Postal Law, foreign investors are not allowed to engage in domestic express delivery service for correspondence; this service is in the "prohibited" category in the 2011 *Catalogue for the Guidance of Foreign Investment Industries*. However, foreign-invested express delivery enterprises represented by the four "international integrators" (FedEx, DHL, UPS, and TNT) dominate the international express delivery business in China.

324. The postal authority has also strengthened its administration on express delivery services. Under the Postal Law an express delivery licence must be obtained from the postal authority for the provision of express delivery services. Further, express delivery enterprises that were established in accordance with relevant regulations but did not meet the requirements in the Law, needed to meet the licensing requirements for express delivery before 30 September 2010. In addition to relevant provisions in the Postal Law, the Administrative Measures on Operation Licence of Express Delivery Services also entered into force on 1 October 2009. According the 12th Five-Year Plan for Postal Services, the 2008 Measures of Administration on Express Delivery Market are to be amended. Up to July 2011, the postal authority had issued 6,891 express delivery licences and approved foreign-invested enterprises to engage in express delivery services.

325. In order to further expand express delivery services, in 2010, China Post set up China Courier and Logistics Co. Ltd, which is preparing for its initial public offering. If successful, it will become the first express delivery enterprise listed in China. The 12th Five-Year Plan for Postal Services states that China will deepen reform and strengthen postal enterprises. The objective is for them to be ranked in the Global 500, and especially to create large express-delivery enterprises.

(viii) Distribution services

(a) Overview

326. China's distribution sector continues to develop rapidly. Total wholesale and retail trade increased from about ¥9.3 trillion in 2005 to more than ¥27.66 trillion in 2010. At end 2010, there were 111,770 enterprises engaging in wholesale and/or retail services in China, with 8.52 million employees. The value-added of wholesale and retail trades amounted to ¥3.57 trillion in 2010, accounting for 8.9% of GDP and 20.7% of the total value-added of the tertiary industry. Foreign investment also continued to grow in this sector. At end 2010, there were 4,266 foreign-invested

wholesale and/or retail enterprises (juridical persons) above designated size, employing 967,141 people; 71.1% were wholly foreign-owned enterprises Total foreign investment in wholesale and retail reached US$103.2 billion.[181] From January 2009 till June 2011, China approved the establishment of 748 foreign-invested retail enterprises, which utilized foreign investment of US$2.98 billion. According to a communication submitted by China to the WTO in October 2011, foreign-invested enterprises in the whole distribution sector (including commission agent services, wholesale, and retail) totalled 5,983.[182]

327. Large supermarkets and high-class department stores are relatively new to China's retail sector, and constitute the main businesses operated by foreign-invested retailors. In this area, foreign-invested retailers prevail over domestic retailers. In January 2010, there were 604 foreign-invested comprehensive retail enterprises, accounting for US$2.26 billion of utilized foreign investment; mainly in the form of department stores (360 units) and large supermarkets (160 units), they used foreign investment of US$1.78 billion and US$440 million. These department stores and supermarkets were located mainly in the eastern coastal region.

328. There have been no major changes in the laws, regulations and rules governing distribution services. Since 2008, the Ministry of Commerce has delegated its authority of examining and approving foreign-invested enterprises in some services sectors, including retail, to the competent local administrations. In order to prevent large retailers from abusing their advantageous position in the market, in addition to ensuring the implementation of the Administrative Measures for Fair Transactions between Retailers and Suppliers, the Ministry plans to improve relevant rules and regulations. The Ministry is also promoting the formulation of the Administrative Measures on Urban Commercial Outlets to regulate the construction of large-scale commercial outlets.

(b) Online retail

329. As e-commerce has developed rapidly, online retail in China has experienced explosive growth in the past few years. According to the statistics of the China Internet Network Information Centre, online shopping consumers in China comprised 194 million people, and 37.8% of total netizens at end 2011. Online retail sales grew by 44.6 % over the year 2010, to ¥756.6 billion, which represents 4.2% of the total retail sales of consumer goods in China. Online retail in China is in various forms, including: sales by internet companies whose main business is online retail, some of which are online department stores, others are specialized, such as in books, audiovisual products; sales by traditional retailers; sales on electronic transaction platforms; and online sales by manufactures.

330. The leading online retail platform is Taobao.com with which 50,000 traders are registered. According to Analysys International, an internet research firm, Taobao.com accounted for nearly a third of China's online retail business-to-customer (B2C) market share in the second quarter of 2011, followed by 360buy.com (12.4%) and amazon.cn (2.3%). Clothing, footwear, consumer electronics, and media products constitute the main commodities of online sales. The rapid development of online group purchase drives the online sale of local services, such as catering, the beauty industry, and entertainment.

331. Enhanced telecommunication infrastructure, including broadband access, and improved electronic payment facilities contributed to the expansion of e-commerce in China, including online retail. In response to the booming online retail business, the Chinese Government is working on the

[181] National Bureau of Statistics of China (2011).
[182] WTO document S/C/W/344, 28 October 2011.

establishment of regulatory framework. According the authorities, the Administrative Regulation on Online Retail, which is being drafted, will, *inter alia*, regulate the market access of online retail platforms and provide for rules on online consumers protection. Online retail is apparently subject to laws, regulations, and rules that govern e-commerce and internet in general. The Law on Electronic Signature was promulgated in 2004 and in 2005, the State Council issued a Circular on the Acceleration of E-Commerce with a view to facilitating transactions over the internet. The Central Bank issued the Administrative Measures on Payment Services Provided by Non-Financial Institutions in 2010, which provides rules governing online payment. E-commerce is also subject to internet-related regulations. An internet company directly engaging in online retail services or providing online retail platforms must obtain an ICP (internet content provider) licence. ICP-related licensing requirements and procedures are set out mainly in the Regulations on Telecommunications, the Administrative Measures on Information Services via Internet, and the Administrative Measures for the Licensing of Telecommunication Business Operations, etc. Online retail is maintained in the "restricted" category of the 2011 *Catalogue for the Guidance of Foreign Investment Industries*.

(c) Franchising

332. The regulatory framework on franchising in China was established with the entry into force of the Administrative Regulation on Commercial Franchising in May 2007. To implement this regulation, two department rules entered into force at the same time: the Administrative Measures on Filing for the Operation of Commercial Franchises and the Administrative Measures on Information Disclosure of Commercial Franchises. At end 2011, over 1,700 franchise enterprises, including 39 foreign franchisors, had been filed with the Commerce Franchise Information System. According to the latest annual survey by China Chain Store and Franchise Association, at the end of 2010, there were more than 4,500 franchise units operating over 400,000 franchise stores covering more than 70 industries, which created over 5 million jobs. In 2011, the Ministry of Commerce revised two ministerial measures governing franchise. The revision of the Administrative Measures on Filing for the Operation of Commercial Franchises was completed and set to enter into effect in February 2012. There is now no limitation on foreign-investment in franchising. China removed franchising from the "restricted" category in the 2011 *Catalogue for the Guidance of Foreign Investment Industries*. Foreign franchisors must file with the Ministry of Commerce while domestic franchisors are required to file with the commercial competent authority at the provincial level.

(ix) Logistics services

(a) Market overview

333. China's logistics industry has grown rapidly since accession to the WTO.[183] According to China Federation of Logistics and Purchasing, the total external logistics value was ¥125.4 trillion in 2010, 6.3 times higher than that in 2000. It was mainly boosted by the logistics values of industrial products, imports, and exports. The total logistics value of industrial products was ¥113.1 trillion in 2010, representing 90.2 % of the total external logistics value. From 2000 to 2010, the average annual growth rate of external logistics was 22%. The value added of logistics has also grown annually, at 14% since 2000; it reached ¥2.7 trillion in 2010, accounting for about 16% of the total value added of

[183] The Restructuring and Revitalization Plan for the Logistics Industry issued by the State Council in 2009 defined the industry for the first time. According to this document, the logistics industry refers to a compound service industry integrating transport, warehousing, freight forwarding, and information technology. According to the Chinese authorities, while in practice any enterprise engaging in transport or warehousing or freight forwarding is now considered as a logistics enterprise, the Government is encouraging logistics enterprises to integrate these activities by introducing relevant policies.

China's tertiary industry and 6.9% of GDP. At the same time, China's logistics spending decreased, from 19.4% of GDP in 2000 to 17.8% in 2010. Nevertheless, this remains much higher than that in developed countries, where logistics spending normally accounts for 10% of GDP. Transport and warehousing spending, respectively, accounted for 54% and 33.9% of China's total logistics spending in 2010. According to the World Bank Logistics Performance Index, China ranked the 27th of 130 economies in 2010 up from 30th in 2007.[184] According to the World Bank, China's logistics performance is far higher than would be expected based solely on its income level.

(b) Logistics infrastructure and freight transport

334. In line with the rapid increase in fixed asset investment in the last two or three decades, China's logistics infrastructure has been remarkably improved. Improved infrastructure and increased demand from manufacturing and merchandise trade contributed to the rapid growth of logistics industry. According to China Federation of Logistics and Purchasing, China's fixed asset investment in the logistics industry was ¥3.07 trillion in 2010, of which 75.7% (¥2.3 trillion) was in transport and 7.2% (¥223.8 billion) in the warehousing and postal industries. From 2000 to 2010, fixed asset investment in logistics increased 24.1% annually.

335. Freight traffic appears to have increased in each transport mode in the last few years. In 2010, 24.5 billion tonnes of freight were transported by road and turnover was 4.34 trillion tonne/km, up more than four-fold over 2006 (Table IV.21). The volume of road container transport was 52.82 million TEUs and 595.9 million tonnes in 2009, up 50.1% and 62.2% over 2006.

Table IV.21
Basic conditions of freight transport, 2006-10

Item	2006	2007	2008	2009	2010
Length of transport routes (10,000 km)					
Railways in operation	7.71	7.80	7.97	8.55	9.12
Highways[a]	345.70	358.37	373.02	386.08	400.82
Expressway	4.53	5.39	6.03	6.51	7.41
Navigable inland waterways	12.34	12.35	12.28	12.37	12.42
Total civil aviation routes	211.35	234.30	246.18	234.51	276.51
Petroleum and gas pipelines	4.81	5.45	5.83	6.91	7.85
Total freight traffic (10,000 tonnes)	**2,037,060**	**2,275,822**	**2,585,937**	**2,825,222**	**3,241,807**
Railways	288,224	314,237	330,354	333,348	364,271
Highways	1,466,347	1,639,432	1,916,759	2,127,834	2,448,052
Waterways	248,703	281,199	294,510	318,996	378,949
Civil aviation	349.4	401.8	407.6	445.5	563.0
Petroleum and gas pipelines	33,436	40,552	43,906	44,598	49,972
Total freight tonne/km (100 million tonne/km)	**88,840**	**101,419**	**110,300**	**122,133**	**141,837**
Railways	21,954	23,797	25,106	25,239	27,644
Highways	9,754	11,355	32,868	37,189	43,390
Waterways	55,486	64,285	50,263	57,557	68,428
Civil aviation	94.3	116.4	119.6	126.2	178.9
Petroleum and gas pipelines	1,551	1,866	1,944	2,022	2,197

Table IV.21 (cont'd)

[184] In the 2010 Logistics Performance Index Report, those 26 countries or regions ranked ahead of China were all developed economies except four: Singapore, Hong Kong China, South Korea and United Arab Emirates.

Item	2006	2007	2008	2009	2010
Possession of civil motor vehicles (10,000 units)	**3,697.35**	**4,358.36**	**5,099.61**	**6,280.61**	**7,801.83**
Private vehicles	2,333.32	2,876.22	3,501.39	4,574.91	5,938.71
Possession of other motor vehicles (10,000 units)	**8,797.67**	**9,434.03**	**9,756.92**	**10,489.01**	**11,305.55**
Possession of civil transport vessels (unit)	**194,360**	**191,771**	**184,190**	**176,932**	**178,407**
Motor vessels	157,805	157,544	152,247	149,367	155,624
Barges	36,555	34,227	31,943	27,565	22,783
Volume of freight handled in coastal ports above designated size (10,000 tonnes)[b]	**342,191**	**388,200**	**429,599**	**475,481**	**548,358**

a Length of highways includes village roads since 2005.
b Since 2009, statistical coverage above designated size refers to coastal seaport with capacity over 10 million tonnes yearly and inland port over 2 million tonnes yearly.

Source: China Statistical Yearbook 2011.

336. While the volume of freight transport by rail is less than that by road, more than half of rail transport revenue is from freight transport (¥139.3 billion in 2006). The major types of goods transported by rail are coal, petroleum, smelting materials (coke, ore, steel, etc.), building materials, grain, fertilizer, and containers. Coal constitutes nearly half of the goods transported by rail. In 2010, fixed asset investment in the rail sector reached ¥842.7 billion, with annual growth of nearly 20%.

337. In 2010, freight throughput of 'above-scaled' coastal ports was 5.5 billion tonnes and total freight traffic by waterways about 3.8 billion tonnes. Coal, minerals, construction materials, petroleum, steel, and machinery and electrics were the main types of goods transported. Coal constitutes nearly one fifth of the total amount of freight traffic by waterways.

338. Air freight, which accounted for less than 2% of total freight traffic in China, amounted to 5.63 million tonnes in 2010, of which 1.93 million tonnes were transported on international routes and 3.70 million tonnes on domestic routes. Freight throughput of the airports was 8.6 million tonnes in 2009, up 14.3% over 2006. The top 10 freight airports by turnover in 2007 are: Shanghai Pudong; Beijing Capital; Guanzhou Baiyun; Shenzhen Baoan; Shanghai Hongqiao; Chengdu Shuangliu; Kunming Wujiaba; Hangzhou Xiaoshan; Xiamen Gaoqi; Nanjing Lukou. Shanghai Pudong Airport had the highest freight turnover in China, Nanjing Lukou had the highest growth rate.

(c) Storage and warehousing

339. According to China's second economic census, there were 17,415 storage and warehousing enterprises in 2008, which had ¥569.45 billion of assets, employed 5,110,000 people, and generated revenue of ¥89.7 billion. In 2007, the revenue of storage and warehousing services was ¥302.1 billion. They comprised a relatively smaller subsector of China's logistics industry, accounting for 7.6% of the total assets or 9.6% of the total revenue of the industry. However, this subsector has grown rapidly (the annual growth rate of general revenue was 35% from 2004 to 2008). In 2010, fixed asset investment in storage and warehousing was ¥181.2 billion, representing only 6.5% of the total fixed asset investment in transport, storage, and post.[185]

340. China's existing storage and warehouse facilities barely meet its fast increasing market needs. According to a survey conducted by China Materials Storage and Transportation Association, the warehouse vacancy rate in China was 3% in 2008, much lower than the rate deemed normal in the industry, of 20%. In this context, logistics operators in China including not only storage and

[185] National Bureau of Statistics of China (2011).

warehousing enterprises, but also freight forwarders and 3PL providers, have increased their investment in building and upgrading storage and warehouse facilities, including specialized warehouses (e.g. warehouses for hazardous goods, cold storage).

341. Domestic enterprises mainly engaging in storage and warehousing services are generally very small. In 2008, the average number of employees per enterprise was only 29. Recent mergers and acquisitions in the logistics industry mostly involved storage and warehousing enterprises.[186] With ¥12.5 billion of assets, 8.31 million square meters of land, 6,700 employees, and 6.2 billion tonnes of annual throughput, China Material Storage and Transportation Corp (CMST), a state-owned enterprise, is the sector leader.

342. Foreign logistics enterprises also provide storage and warehousing services in China. The world's leading warehouse developer and operator, Prologis, formed its first joint venture in Suzhou in 2004. Prologis is now present in 20 coastal and inland Chinese cities with 8.1 million square meters in operation.

(d) Freight forwarding

343. Until 1 July 2004, engaging in international freight forwarding services in China was subject to administrative approval by the competent authority responsible for foreign trade. As of 1 July 2004, 5,012 enterprises had obtained such approval, of which 2,555 were juridical persons, 2,457 branches. Enterprises engaging or wishing to engage in international freight forwarding services are required currently only to file with the local authority responsible for commerce. As of May 2010, there were 25,606 'filed' international freight forwarders, of which 20% were state-owned or state-controlled, 20% with foreign investment, and 60% private domestic enterprises. State-owned or controlled freight forwarders prevail in terms of market share and overall turnover. A study undertaken in 2010 shows that state-owned or state-controlled enterprises operate about 40% of freight forwarding businesses in China, foreign-invested enterprises 30% and private domestic enterprises 30%.[187] According to China International Freight Forwarding Association, China National Foreign Trade Transportation Corp (Sinotrans), a state-owned enterprise, is the biggest freight forwarder in China with a turnover of ¥74.3 billion in 2009; while the total turnover of the top 10 private freight forwarders was around ¥30 billion. Big Chinese freight forwarders are transforming or have transformed into third-party logistics providers; their businesses now cover a wide range of activities along the logistics chain.

(e) Third-party logistics (3PL)

344. The concept of third-party logistics (3PL) remains relatively new to China and the 3PL market is in its early stages, as most domestic enterprises continue to operate their own logistics as an in-house business. According to a 2008 study by KPMG, while the majority of multinational corporations use 3PL in China, only 15% of domestic companies use outside logistics firms; 3PL's share of China's logistics market is estimated to be around 20%, which is considered low compared with the EU (35%), the US (57%), and Japan (80%).[188] According to another study, the total cost of the 3PL in China was ¥230 billion in 2006, accounting for less than 6.1% of the nation's total logistics cost (¥3.8 trillion).[189]

[186] China Association of Warehousing and Storage online information. Viewed at: www.caws.org.cn.
[187] Mei Zanbin & Liu Jianxin (2010).
[188] KPMG (2008).
[189] China Knowledge Online. Viewed at: www.chinaknowledge.com.

345. China's domestic logistics enterprises may be state-owned/controlled or private. Most state-owned/controlled logistics operators have developed from traditional state-owned transport or warehousing enterprises. Some are subsidiaries of state-owned enterprises in other industries (e.g. chemical, electronics, mineral industries), which engage in the logistics industry in order to diversify their business. State-owned/controlled operators hold 50% of China's logistics market. Most domestic private logistics enterprises are small and only operate local businesses. More than 700,000 logistics enterprises are registered in China, but less than 1% of them are truly integrated logistics enterprises; most provide a single logistics service, such as freight forwarding or warehouse managing. Even the largest enterprise in this industry has a market share of less than 2%.

346. According to China Federation of Logistics and Purchasing, the combined revenue of the top 50 biggest logistics enterprises in China (i.e. annual revenue of over ¥1 billion), was ¥450.6 billion in 2009. Among the top 50, 18 were SOEs, and 6 were foreign-invested; 30 were logistics enterprises whose main business was transport; 8 mainly operated warehousing and storage services; and only 12 were integrated logistics enterprises; 80% were located in the east of China.

347. China Ocean Shipping Group Corp (COSCO), the largest domestic logistics enterprise, had revenue of ¥155.0 billion in 2006. Other top domestic logistics enterprises include: China Shipping Corp; China National Foreign Trade Transportation Corp (Sinotrans); China Material Storage and Transportation Corp (CMST); China Railway Express Corp (CRE); China Post. The CRE has the largest service network throughout China, while the COSCO's network mainly covers the coastal areas.

348. According to statistics by MOFCOM, from 1998 to end 2011, there were 6,415 foreign-invested enterprises established in transport, storage and warehousing, and postal services, the total actually utilized foreign capital being US$24.79 billion, representing 2.6% of the total inflow of foreign investment in the same period. One study indicated that services provided by foreign-invested logistics enterprises represent about 22% of China's logistics market.[190] Foreign-invested logistics operators have prevailed China's domestic enterprises in international express delivery, sea-freight forwarding, and specialized logistics services. For example, Schenker's subsidiary in China was selected to operate as the official freight forwarding & customs clearance supplier for the 2008 Beijing Olympic Games. Schenker has operations in over 50 key cities throughout China with more than 4,700 employees.

349. Other world leading logistics operators (e.g. Agility, YRC Worldwide, EAS, BAX, Panalpina, Kuehne+Nagel, FedEx, TNT, UPS, TNT, Maersk Logistics, APLL, ZIM Logisitics, NYK Logisitics, etc.) all have a presence in China, through either joint-ventures in the early years or 100% owned subsidiaries since 2005. They have accelerated their expansion in China in recent years, particularly through acquisition of domestic logistics enterprises. For example, in 2007 Agility acquired Guangzhou Runtong International Transportation Co Ltd, an ocean freight forwarder based in Guangdong, and Cosa Freight, a Shenzhen-based ocean freight forwarder known for its expertise in multi-country consolidation and value-added services, such as transloading direct-to-store programmes. In 2008, Agility also acquired Baisui United Logistics (Shanghai) Co., Ltd. With services covering 150 Chinese cities, Agility now has more than 40 offices, 1,500 staff, over 200,000 sq.m. of warehousing storage capacity and its own fleet, trucks, and contracted vehicles in China. Similarly, YRC Worldwide acquired JHJ International, a trucking carrier, in 2005 and Shanghai Jiayu Logistics Co., Ltd. (Jiayu), in 2007, one of China's largest national providers of truckload and less-than-truckload services.

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[190] Mei Zanbin & Liu Jianxin (2010).

350. The "big four" integrated operators play an important role in China's logistics market. TNT in China has 34 branches and 5 international gateways for international express delivery business, as well as 57 operation hubs and 1,600 depots for domestic road distribution. TNT employs 21,000 professional employees with services covering over 600 cities in China, making China its second largest market, after Europe. TNT has dedicated Boeing 747 freighters operating seven flights per week between Shanghai and Europe and five flights per week between Hong Kong and Europe. FedEx set up its Asia-Pacific Hub in Guangzhou and operates 30 weekly U.S.-China frequencies, including weekly flights serving Shanghai, Beijing, and Shenzhen. FedEx employs more than 6,000 people in China and its service network now covers over 300 Chinese cities. DHL has more than 200 agencies providing services to more than 400 cities in China. UPS serves 330 Chinese cities and operates 200 weekly flights connecting China to markets around the world. Its flights now operate in six Chinese cities.

(f) Logistics parks (including bonded logistics parks) and logistics hubs

351. According to a survey carried out by China Federation of Logistics and Purchasing, there were 475 logistics parks in China in 2008, of which 122 were in operation and the others were under construction or planning. More than 54% of these logistics parks were located in the coastal regions. In terms of size and functions, the parks are very diverse, ranging from small areas with a few warehouses or distribution centres, to comprehensive industrial zones grouping various logistics enterprises. Some logistics parks were built and operated by local governments as supporting services provided to business. There are also logistics parks operated by private or foreign capital.

352. Bonded logistics parks, which are established in bonded zones or special ports adjacent to bonded zones operate under Customs supervision to facilitate imports and exports, especially processing trade and transit trade.

353. Shanghai has the country's largest seaport and the second-largest airport in terms of air-freight throughput. With the advantages of deep-water ports, airports, land transport, and full port facilities, Shanghai is developing four major logistics parks, located at WaiGaoQiao, Pudong Airport, Northwest, and the Yangshan deep-water port. Suzhou is the secondary logistics hub in Yangtze River Delta, due to the significant presence of foreign manufacturers. In the same region, Ningbo port's freight throughput ranked third in China in 2010.

354. In the Pearl River Delta where industries focus on processing and export, Shenzhen has become the most important logistics hub in south China owing to its location adjacent to Hong Kong, and its own port. In recent years, the municipal government of Guangzhou has been promoting the region as a logistics hub, leveraging on its status as a centre for manufacturing, its well-established transportation network, and rapidly developing logistics infrastructure.

355. The Bohai Bay Region has high logistics demand and freight traffic; Shandong Province has the highest freight traffic volume in China. Logistics activities in Tianjin, the economic centre of North China, are currently centred around Tianjin Airport and the Binhai New Area, which consists of the Tianjin Port and the Tianjin Economic Technological Development Area (TEDA). The central government has identified logistics as a key growth area for the city, and strongly supported municipal plans to develop the Binhai New Area and enhance the city's logistics infrastructure. Dalian is the gateway for goods from the north-east entering the Bohai Sea.

356. While the coastal areas remain the overwhelming focus of logistics activities, new logistics hubs are emerging in inland China. Chengdu, Hangzhou, and Shenyang have strong consumer

markets while Chongqing, Wuhan, Nanjing, Harbin, Changchun, Xian and Zhengzhou represent the major industrial hubs for the rapidly expanding domestic markets. Unlike the coastal logistics hubs, where imports and exports are major factors for logistics development, the logistics markets in inland cities are driven mainly by the growth of the domestic economy. They also have the advantage of lower costs for land and labour.

(g) Regulatory framework

357. While there is no single competent authority overseeing the logistics industry in China, more than a dozen of government departments are responsible for logistics-related regulations. In order to facilitate internal coordination, the National Inter-Ministerial Joint Meeting on Modern Logistics was set up in 2005. This institution, with the National Development and Reform Commission taking the lead, involves 15 ministries and agencies that meet one or twice per year.[191] The State Council issued the Restructuring and Revitalization Plan for Logistics Industry in March 2009; and in August 2011, the General Office of the State Council issued the Opinions on the Policies and Measures for Promoting the Sound Development of Logistics Industry, which anticipate, *inter alia*, tax reductions and further favourable land policies for logistics enterprises, eliminating or reducing road tolls, and more investment in logistics infrastructure. The Opinions encourage big logistics enterprises to consolidate the fragmented industry through mergers and acquisitions, and set farm produce logistics as priority. Also in June 2010, the National Development and Reform Commission issued the Development Programme for Farm Produce Cold Chain Logistics. In the newly amended *Catalogue for the Guidance of Foreign Investment Industries*, modern logistics and related technical services, logistics information consulting services are classified as "encouraged".

358. Logistics-related laws, regulations or rules are scattered in various sectors. For example, numerous regulations governing transport, especially freight transport, are also relevant for logistics services, such as: the provisions governing maritime transport in the Maritime Law (1992); Regulation on International Maritime Transport (2002) and its Implementation Rules (2003); Interim Measures for the Examination and Approval of Wholly Foreign-funded Shipping Companies (2000); Administrative Measures on Foreign Investment in International Maritime Transport (2004); Administrative Measures on Port Management (2004); the Regulation on Road Transport (2004); Administrative Measures on International Road Transport (2005); the Administrative Measures on Foreign Investment in Road Transport and its supplementary provisions (2001, 2003, 2004); Administrative Measures on Road Transport of the Radioactive Substances (2011); Administrative Measures on Road Transport of Hazardous Goods (2011); Administrative Measures on Road Freight Transport and Depots (2009); Interim Measures on Examination, Approval and Administration of Foreign Investment in Railway Freight Transport (2000); Administrative Regulation on Waterways Transport (2009) and its Implementation Rules (2009); Measures on Foreign Investment in Civil Air Transport and its supplementary provisions (2001, 2004, 2007, 2008, 2010) . The Postal Law (2009) and the Administrative Measures on Operation Licence of Express Delivery Services (2009) provide for rules on express delivery (see above).

359. The Ministry of Commerce is the competent authority in China with respect to freight forwarding. Main regulations and rules include: the Administrative Regulation on International

[191] The 15 departments and agencies are: the Ministry of Commerce; the Ministry of Railways; the Ministry of Transport; the Ministry of Industry and Information Technology; the Civil Aviation Administration; the Ministry of Finance; the Ministry of Public Security; the General Administration of Customs; the State Administration of Taxation; the State Administration for Industry and Commerce; the General Administration of Quality Supervision; Inspection and Quarantine; the State Standardization Commission; China Federation of Logistics and Purchasing; and China Transport Association.

Forwarding Agency Services and its Implementation Rules (2004); the Administrative Measures on International Forwarding Agency Enterprises with Foreign Investment (2005); and the Interim Measures for the Filing of International Freight Forwarders (2005). Foreign investors are allowed to establish wholly foreign-owned freight forwarding agencies in China and are subject to the same registered capital requirement as domestic freight forwarders (no less than US$100 million). Foreign-invested freight forwarders are allowed to engage in a wide range of businesses, including: ship booking, customs clearance, storage and warehousing, freight forwarding agent, international express delivery, international multimodal transport, container transport, consultancy. An application for the establishment of a foreign-invested freight forwarder is submitted to the commercial competent authority at the provincial level and a decision on the application must be taken within 30 days. All international freight forwarders are registered with the Ministry of Commerce. As freight forwarders and logistics operators also provide customs brokerage services, they are also subject to regulations and rules in this regard, such as the Administrative Measures on Customs Declaration Unit Registration (2005), and Administrative Measures on Customs Inspection and Quarantine Agencies (2002).

360. The Government is promoting the application of uniform logistics-related technical standards across the country, as part of its efforts to integrate the logistics industry. A sub-commission on logistics technical standardization was established under the State Standardization Commission in 2003. The latter, together with other ministries and agencies, issued the National Specific Programme for Logistics Standardization in 2010, which identified standardization tasks related to logistics in 13 areas, including transport, storage and warehousing, freight forwarding, some special product-related logistics (grains, cold chain, pharmaceutics, car parts, etc.), and postal and express delivery. At end 2010, 22 national logistics standards and more than 20 logistics industrial standards had been issued.

361. China has made commitments on logistics-related services under the GATS. Apart from its commitments regarding transport services, China has also made phase-in commitments on storage and warehousing services (CPC 742), and freight forwarding agency services (CPC 748 and 749 excluding freight inspection). According to these commitments, wholly foreign-owned subsidiaries in these two sectors are permitted, respectively, since 2004 and 2005. In general, there are no limitations on national treatment except in freight forwarding agency services. A foreign freight forwarding agency must have at least three consecutive years of experience before establishing in China; a second joint venture may be set up only after its first joint venture has been in operation for two years; the operating term of a joint-venture freight forwarding agency may not exceed 20 years; and a joint-venture freight forwarding agency may set up branches after one year of operating in China. China's PTAs confirm its GATS commitments in these sectors.

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