



## *MMLC Group – China Update*

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Head Office

Level 7, Tower W3, The Towers, Oriental Plaza  
No.1 East Chang Avenue, Dongcheng 100738, Beijing, China

p: +86 10 8515 1091

f: +86 10 8515 1089

w: [www.mmlcgroup.com](http://www.mmlcgroup.com)

### **Business News**

#### **Kia builds new factory in China**

Kia Motors Corp, South Korea's second largest carmaker, invested US\$919 million in opening a second factory in its Chinese venture Dongfeng Yueda Kia Motors Co Ltd, which is jointly owned by Kia, Dongfeng Motor Corp and Jiangsu Yueda Investment Co. The new factory can make 300,000 vehicles annually, raising Kia's total capacity in China to 430,000 units.

#### **National standards for methanol blended fuel to be passed**

To develop substitutes to oil-derived fuels, China will approve a national standard for methanol blended gasoline which contains more than 85 percent methanol and another standard for methanol fuel which contained less than 15 percent methanol in 2008. Automobiles with methanol engines have been sold in China already and are growing in popularity.

#### **World's largest subway system emerging in Beijing**

Beijing is investing US\$10.8 billion to build the world's largest metro system; the

total rail lines are expected to be 561 km in length with a capacity of 9 million passengers daily. All construction is set to be completed by 2015. By that time, the rail lines will extend from downtown to many key locations suburban area, including the Olympic Park and seven suburban satellite cities.

#### **China gets support from IFC**

IFC, a member of the World Bank Group, recently signed a US\$15 million dollar loan agreement with Asia Environment Holdings (AEH) to support the company's activities in addressing the problems of water shortages caused by limited resources, increasing demand, and pollution in China. This is IFC's second investment in China's water and wastewater treatment industry.

#### **Chinese banks ready for overseas M&As**

The China Banking Regulatory Commission (CBRC) has set standards for "go out" strategies for Chinese banks, including high capital adequacy ratios and strict criteria for lending loans, etc. Now some banks have met these standards for conducting overseas

mergers and acquisitions. When implementing such "go out" strategies, the bank must submit complete files, including feasibility study reports to the CBRC for approval.

### **China's CPI at 6.9%**

Due to rising food prices, China's consumer price index reached the highest level in 11 years - 6.9% in November 2007. The increase for the first 11 months was 4.6%. The country's top leaders made curbing inflation a priority in 2008 and have decided to adopt a "tight" monetary policy. The central bank announced a 1% increase in the bank reserve ratio to 14.5%, the highest level since 1984.

### **Goldwind kicks off IPO**

China's largest maker of wind-powered generators, Xinjiang-based Goldwind Science and Technology Co, plans to issue 50 million shares in a Shenzhen initial public offering (IPO) to raise 1.88 billion RMB. Goldwind has been growing rapidly for several years as a result of the government's clean energy push. By 2020, the market value of Chinese wind power industry will reach \$US1.25 billion. Global wind power leaders Suzlon Energy Ltd, Roaring 40s, Vestas Wind Systems, Spain's Gamesa and are also investing in the industry in China.

### **SOEs pay dividends from 2008**

The Ministry of Finance and State-owned Asset Supervision and Administration Commission jointly issued a new rule governing distribution of central state-owned enterprises (SOEs) profits, i.e. Administrative Methods on Collection of Earnings from Central State-Owned Assets, according to which SOEs supervised by the central government will pay capital gains to the State on differentiated rates, ending the practice of SOEs not paying dividends to their largest or major shareholder - the State.

### **Multinationals black listed as air polluters**

The Beijing-based Institute of Public and Environmental Affairs, one of Chinese leading environmental activists, released its China Air Pollution Map. Forty multinational companies, including French tire manufacturer Michelin

and German chemical company BASF have been named as major air polluters alongside more than 4,000 Chinese enterprises. Subsidiaries of large Chinese companies such as Sinopec and PetroChina are also listed.

### **China reshuffles public holidays**

The Chinese government released a Notice earlier this year on national public holiday arrangements, cutting the May Day holiday from three days to one day and adding three traditional festivals to the list of public holidays, each of which being a one-day holiday, namely Tomb-Sweeping Day (*Qing Ming*), Dragon-boat Festival and Mid Autumn Festival - as result, the total number of national holidays in China has increased from 10 to 11 days. Another adjustment is that Chinese New Year Holidays will begin from the eve of the Lunar New Year this year as opposed to the day after it, China's most important traditional festival.

### **CIC purchases equity units of Morgan Stanley**

China Investment Corp (CIC), which was opened in last September, with an initial capital of US\$200 billion from the China's large foreign exchange reserves, has purchase equity units that are mandatorily convertible into 9.9% of Morgan Stanley common shares at the price of US\$5 billion. The equity units carry a fixed annual interest rate of 9% before conversion on August 17, 2010. CIC considers it a good opportunity to invest in US-based financial institutions after the subprime mortgage crisis.

### **Biggest M&A deal in China's auto industry closed**

A final agreement has been signed between China's largest carmaker Shanghai Automotive Industry Corp (SAIC) and Yuejin Motor Group, controlling shareholder of SAIC's smaller rival Nanjing Automobile Group, closing the biggest M&A deal in China's auto industry in more than two decades, making the SAIC-Nanjing Auto complex become the China's largest auto group in terms of assets, number of products and business scope.

### **Venture capital surges to US\$3.2 billion**

By November 2007, foreign and domestic venture capital institutions have invested US\$3.18 billion in 428 deals across China. Venture capital investment was 78.9% higher than the figure of 2006. Venture capital institutions raised a total US\$5.42 billion in 55 funds in China during the first 11 months of 2007. The money raised and the numbers of funds were 36.5% and 41% higher than those of last year.

### **China's Iron Lady steps down**

Wu Yi, "China's Iron Lady", the country's only woman vice-premier, announced that she will retire after the NPC (the top legislature) and CPPCC (the top advisory body) meetings conclude in March 2008. She has stated that she will not take any post after retirement or serve in any organization. She will be missed by both the Chinese and foreign international treaty and dispute negotiators, as her reputation was one of toughness but reasonableness as **seen from both sides of the table.**

### **Exports of Chinese farm machinery hits US\$4 billion**

Exports of Chinese farm machinery reached more than US\$4 billion in 2007, with a total output value of US\$20.7 billion. Industry output is expected to hit 170 billion RMB this year. A survey discovered that in China only 35.9% of farm work, such as ploughing, sowing and harvesting, is completed by machine. This huge farm machinery market has attracted machinery giants from Italy, the Republic of Korea and the United States, etc.

### **China's online gamers to surpass 59 million**

A nationwide survey revealed that China's online gamers is expected to surpass 59 million in 2008. It also reported that in China the market value in 2007 witnessed a 57% rise compared to previous year's 9.36 billion RMB (1.2 billion US dollars). The top three game developers in China are Nasdaq-listed Shanda (Nasdaq: SNDA), Netease (Nasdaq: NTES) and Shanghai-based Giant Interactive (NYSE: GA). Free online games services, instead of the

fee-based model, are expected to dominate the market in 2008.

### **China's growth enterprise board**

China will approve a growth enterprise board (similar to that of Hong Kong's GEM) and stock index futures this year. It has been widely reported that the Chinese government has taken the view that China needs a growth enterprise board, to help absorb surplus liquidity in the market.

## **Legal News**

### **China strengthens IPR protection**

To strengthen efforts in intellectual property rights (IPR) protection, the Shanghai government is in the process of setting up an assistance center to provide consulting services and legal help for IPR owners. Meanwhile, upon the infamous Silk Market having recently registered its housemark in China, it is complaining at how difficult it is to stop infringers and counterfeiters from using its mark. Statistics show that since China's accession to the WTO, IPR application and disputes of at both the domestic and international levels have been rising dramatically.

### **China to curb price increase**

The National Development and Reform Commission, China's top economic planner, required that the prices of grain products, edible oil, pork, beef, mutton, milk, eggs and liquefied petroleum gas must be monitored and any rises must be approved by government, revealing that the government has temporarily intervened in the food market to control the prices of a range of daily necessities. Major producers must obtain government approval before raising their prices; and major wholesalers are required to file a statement if the prices rise by 6% within 10 days or by 10% within a month.

### **China to bring in property tax**

Property tax could be levied in China as soon as this year. A property tax could curb speculative investment in the housing market and prevent a potential property market bubble from bursting. In October, prices for new residential apartments in China were up 10.6% year on year.

### **China lifts individual income tax threshold**

China passed an amendment to individual income tax law, which will go into effect as of March 1, 2008, raising the collection threshold from 1,600 RMB to 2,000 RMB, excluding 70% of income earners from paying income tax. This move is believed to extend social welfare to more Chinese people as well as relieving the low income group from the skyrocketing food and other consumables prices.

### **Beijing strengthens monitoring of food to be sold at the Olympics**

Beijing is setting up an Olympic Food Safety Command Center for food safety for the 2008 Olympic Games. During the Games, the Center will be in a centralized command of food safety work. Food to be provided for the Beijing Olympics in August this year will be classified into 345 items under 10 categories, with each item checked against specific technical standards. A food safety data processing system that follows all the food processing stages from farmland to dining table for the athletes will also be put into practice.

### **China adopts labor disputes arbitration law**

To address the rising number of labor dispute cases, China's top legislature passed a law on labor disputes and arbitration on December 29, 2007. The major points of the new law are: 1) permitting employers to create arbitration committees to resolve disputes on their own; 2) enhancing workers rights to petition courts for cancellation of unjust mediation decisions; 3) Extending the deadline of beginning arbitration from 60 days to six months; 4) clarifying that disputes regarding compensation, pensions,

and medical expenses incurred due to job-related injuries can be handled by arbitration.

China establishes a quality codes tracking system

By June, the Chinese quality codes measures will take effect, meaning that 69 kinds of major commodities including food products, home appliances, power/cable lines, agricultural tools, gas burners, work safety equipment, electric blankets and cosmetics, can be identified through free phone numbers, the Internet or special enquiry terminals in shops and supermarkets by simply referring to the quality tracking code. Consumers can also acquire additional information about the products through this system, including the name of producers and production and expiry dates. It is widely thought that this system will allow a crack down on piracy for these products, however it is understood that the technology is not difficult to duplicate.

### **Hong Kong ad hoc arbitral awards becomes enforceable in Mainland China**

Earlier this year, the Secretary of Justice of the Hong Kong Special Administrative Region (SAR) applied to China Supreme People's Court (the SPC) for clarification for the legal basis of enforcement in the mainland of Hong Kong ad hoc arbitration awards. The SPC's reply confirmed that ad hoc awards made in Hong Kong are enforceable in the PRC. The SPC reply included many types of arbitrations conducted in Hong Kong, e.g. arbitrations administered under the UNCITRAL Arbitration Rules, regardless as to whether the HKIAC is involved.

### **China tightens environmental monitoring over exporters**

A Notice of "Strengthening the Environmental Monitoring over Export Enterprises" has been promulgated jointly by the PRC Ministry of Commerce ("MOFCOM") and the State Environmental Protection Administration of China ("SEPA"). The Notice requires exporters to prove environmental compliance as a condition for obtaining an export license or quota. MOFCOM and

SEPA will work together: SEPA and its local environmental agencies will monitor exporters' environmental compliance, and then forward information regarding non-compliant exporters to MOFCOM and local commerce departments so that they can consider such non-compliance in assessing applications for export licenses and quotas. The Notice shows a significant step forward in China's efforts to curb environmental pollution.

### **Equipment impost affected by China's New Catalogue**

The latest amendment to China's Catalogue of Industries for Guiding Foreign Investment came into effect on December 1, 2007, one of the major change is that the export-only industry in the "Allowed" catalogue are no longer deemed to be "Encouraged", accordingly, China Customs have adjusted their implementation rules, which cast some affect on some foreign invested enterprises (FIEs) that import equipment from abroad for their own use, especially Customs duty and VAT exemption. From January 1, 2008, equipment imported by export-only FIEs will be subject to normal Customs duty and VAT.

### **New regulations on food labelling**

The Regulations for the Administration of Food Labelling, promulgated by the General Administration of Quality Supervision, Inspection and Quarantine on August 27, 2007, will take effect from September 1, 2008. According to the new regulations, the labels that must be attached to food or packaging must show information such as the name of the food,

its quality grade, net quantity, food ingredients, production date, production licensing, the method of use or consumption, and the producer or seller, etc. Especially nutritious and fortified foods must indicate nutrients and calories.

### **China's new Employment Contract Law**

China's new Employment Contract Law became effective on January 1, 2008. The impact of this law on collective and individual labor rights is still to be comprehended. In addition to this law becoming effective, other regulations on annual leave have also been implemented.

### **China's new Enterprise Tax regime**

The new PRC EIT Law and its Implementing Rules came into effect on January 1, 2008. A series of other regulations may also be issued soon to further clarify the principles set out in the new EIT Law, forming a brand new enterprise tax regime and setting forth unified treatment for foreign-invested enterprises ("FIEs") and domestic enterprises. The latest draft of the Implementing Regulations is available from our office.

*This update is aimed at keeping our clients informed of developments in Greater China. Whilst every care has been taken to ensure the accuracy of this update, it should not be relied upon before individual advice is obtained. The MMLC Group is an international legal and corporate advisory group.*