



## *MMLC Group – China Update*

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### **Business News**

#### **Ford and Changan are in talks over Volvo**

Ford is in discussions about selling off Volvo to Changan Automobile, its Chinese joint venture partner. Ford is apparently keen to divest itself of Volvo as it negotiates a multi-billion dollar bailout from the US government. According to industry sources, however, deals would be difficult to reach because of the risks involved following recent slowdowns in both the US and Chinese auto markets – GM has just announced some unexpected figures for China.

#### **Beijing offers US\$35b loans for oil projects**

Beijing is looking to help Brazil and Russia develop mega energy projects, taking advantage of increasingly tough global credit conditions to drive the mainland's energy security. Chinese officials have proposed lending state-controlled Petrobras US\$10 billion for the development of new deep-sea oilfields off the coast of Rio de Janeiro. They would also resume talks to provide US\$25 billion to Russian state-controlled oil major Rosneft and monopoly pipeline operator Transneft, in exchange for securing oil supplies for 20 years.

#### **CLP Holdings to invest in nuclear power in Shenzhen**

Hong Kong-based power utility CLP Holdings is planning to invest in two planned nuclear reactors at Daya Bay nuclear station in Shenzhen. The proposal follows an accord reached between Hong Kong and mainland authorities in August regarding natural gas imports from the mainland into Hong Kong.

#### **Disney resort in Shanghai approved**

The proposed Shanghai Disney theme park has received approval from the National Development and Reform Commission (NDRC), a key step before a final deal is reached. Disney remains tight lipped about the deal. The park was previously estimated to cover an area five times as large as Hong Kong Disneyland, costing US\$5.8 billion.

#### **Beijing announces \$3bn metal buying spree**

It is said that China will spend US\$3 billion to stockpile 1 million metric tons of base metals in an effort to support domestic metal producers, though doubts were raised about the amount that would actually be bought.

The announcement was seen as a signal that the government will insulate Chinese miners and smelters from falling demand and metal prices to maintain output and employment, rather than encourage cutbacks.

#### **KKR to invest in Chinese dairy startup**

Private equity firm Kohlberg Kravis Roberts (KKR) plans to invest US\$300 million in a startup dairy business in China. The deal, which involves a US\$100 million injection from KKR and US\$200 million in debt financing, comes in the wake of a tainted milk scandal that has destroyed the credibility of China's dairy industry. KKR is said to be trying to build up what is currently a very small dairy farm.

#### **China approves scheme on fuel taxation**

China has approved a long-awaited scheme on fuel taxation, which will be put into effect on Jan 1, 2009. The country will annul six types of fees on road maintenance and management, and at the same time raise the gasoline consumption tax from the current 0.2 yuan each liter to one yuan per liter and diesel consumption tax from 0.1 yuan per liter to 0.8 yuan one liter, according to the approved scheme.

#### **Boost for Qld mining with Chinese investment**

A Chinese mining company has confirmed it still wants to establish a coal mine in central Queensland despite the current world financial problems. Last month Xinwen Mining Group agreed to purchase an Emerald coal tenement in Central Queensland for \$1.5 billion. The sale still needs government approvals but is expected to go through before Christmas.

#### **BP teams up with CAS for clean energy venture**

Global energy giant BP and the Chinese Academy of Sciences (CAS) agreed to establish the Clean Energy Commercialization Center (CECC) joint venture in Shanghai, jointly investing 500 million yuan to commercialize Chinese clean

energy technologies, such as coal gasification and conversion, carbon capture and storage, coal bed methane and underground gasification. Subject to final government approvals, the CECC joint venture is expected to start in early 2009.

#### **Chinese Cabinet appoints new officials**

China's State Council appointed nine senior officials. Zhong Shan, former vice-governor of eastern Zhejiang Province, was appointed Vice-Minister of Commerce, replacing Yu Guangzhou. Ding Zhongchi was appointed chairman of the Board of Supervisors for Key State-Owned Financial Organizations, replacing Zhu Yuanliang. Wang Songhe and Lu Peijun were appointed deputy ministers of the General Administration of Customs.

#### **Coca-Cola's bid for Huiyuan under review**

The Chinese government is conducting a routine anti-monopoly review of Coca-Cola's multi-billion-dollar takeover bid for the Huiyuan Juice Group. The bid has until March 23, 2009 to pass the review, according to the joint statement by the two companies. If approved, it would be Coca-Cola's largest acquisition in China and the biggest ever foreign takeover of a Chinese firm.

#### **Chinese government warns of further downturn effects**

The impact of the global downturn on China's economy accelerated in the last month of 2008 and is continuing to spread, possibly leading to higher unemployment and unrest. The government has given its fiscal stimulus package to limit the effects of the slowdown, including US\$263 billion on new rail, road and airport construction; US\$146 billion on disaster reconstruction, especially in Sichuan province; US\$54 billion on rural development and US\$5.8 billion on health care and education over the next two years.

#### **Sinopacific reassures Western customers**

Chinese shipbuilder Sinopacific held a meeting next week in Hamburg to assure its Western customers that it can deliver ordered vessels. The meeting was called in reaction to speculation that the Shanghai-based company may not survive the current credit crunch and slowdown in the shipping industry.

#### **China Eastern may receive injection**

Shares of China Eastern Airlines were suspended on speculation that the carrier would soon receive a capital injection from Beijing. China Eastern had planned to raise capital by selling a stake to Singapore Airlines, which was blocked by shareholders. The aviation industry as a whole has lost US\$613 million in the first 10 months of 2008, due to high fuel prices and falling demand for air travel.

#### **Shanghai to start building China's tallest building**

Construction of the 120-floor Shanghai Tower will begin in Shanghai's Lujiazui financial district in Pudong Saturday, a US\$2.16 billion project in defiance of the global financial crisis. The building, which is expected to be the China's tallest at 632 meters when it is completed in 2014, is being built by Shanghai Tower Construction and Development, a consortium of three Shanghai state-owned companies.

#### **EU and China agree on financial information service**

In the context of WTO dispute settlement proceedings, the European Union, together with the United States and Canada, has reached an agreement with China on the treatment of financial services information in China. Under the new regulatory regime, responsibility for the agency will now pass to an independent regulator and the requirement that foreign service providers act through a Chinese agent will be removed. China has committed to put the new regime into effect by 1 June 2009.

#### **Growth in IT industry slows down**

China's IT industry growth has slowed in the wake of financial crisis because of the decline in exports in the second half of last year. In addition, a drop in consumer demand for household appliances has also contributed to the sluggish growth of the IT Industry. The government is closely watching the development of the IT industry and will take necessary measures to maintain stable growth.

#### **HK\$100b backing for business**

Chief Executive Donald Tsang Yam-kuen yesterday unveiled a rescue plan that will provide HK\$100 billion in the expansion of the special loan guarantee scheme for businesses, vowing to save struggling firms and protect jobs. The government will also create more than 60,000 jobs through speeding up infrastructure projects, bring forward next year's civil service recruitment and opening temporary positions.

#### **Tax cuts for businesses in pipeline**

As top policymakers ponder ways to ensure GDP growth of at least 8 percent for 2009, the authorities may soon cut business tax for enterprises by 1 percentage point from the current 5 percent, which would amount to \$17.5 billion worth of tax cuts given annual business tax revenues of more than \$87.6 billion last year. It was also reported earlier that policymakers would discuss raising the threshold of personal income tax from 2,000 yuan to 3,000 yuan a month to spur domestic consumption.

#### **China Telecom selects Alcatel-Lucent for upgrading CDMA mobile network**

Alcatel-Lucent announced that it had been selected by China Telecom to provide its unparalleled end-to-end CDMA wireless networking solutions for China Telecom and increase the capacity and coverage of its mobile voice and data network throughout the country. This USD 230 million contract was secured through Alcatel Shanghai Bell, Alcatel-Lucent's Chinese flagship company, which also will provide IP service routers

and applications platforms and services for the deployment.

### **China patent on the move**

Thomson Scientific analyzed the top five patenting authorities globally - Japan, the US, the European Patent Office, South Korea and China, regarding to the new patents filed from 2001 to 2007. The number of applications for new patents has risen rapidly in China, which is set to dominate the patent landscape by 2012.

## **Legal News**

### **Chinese lawyer to sue Baidu under anti-monopoly law**

Li Changqing, a lawyer with George Wu & Partners Law Firm, plans to bring legal action against Baidu for blocking websites that refuse to pay for listings, on behalf of a Chinese medical website. A report by China Central Television made similar claims. It was also reported that Baidu gave top listings to unlicensed medical websites.

### **Taiwan cabinet proposes securities transaction tax cut**

Taiwan's Executive Yuan has recently proposed a temporary bill to reduce the securities transaction tax (STT) by half from the current 0.3% to 0.15% on the gross proceeds of securities sold for a period of six months. The proposal is aimed at boosting the liquidity of Taiwan's stock exchange and increase trading volume. The Executive Yuan has prepared a revision of the Securities Transaction Tax Act for the approval of legislators in upcoming months.

### **Taiwanese legislators propose abolition of 10% profit retention tax**

Taiwanese legislators have proposed and reportedly reached a consensus to abolish article 66-9 of the Income Tax Act which imposes a 10% tax on the retained earnings

of profit-seeking enterprises left undistributed by December 31 of the following calendar year. According to the draft proposal, undistributed retained earnings serve as an integral aspect of corporate risk management and the ability of businesses to make future investments. The 10% profit retention tax reduces the liquidity of businesses and challenges the growth ability of small and medium size enterprises.

### **Diageo wins Shanghai whisky piracy case**

A Shanghai court ruled in favor of UK liquor maker Diageo in a suit against a local firm that copied the packaging and bottle design of its Johnnie Walker Black Label whisky. In this case, Shanghai firm Blueblood sold 37,000 bottles of its Polonius whisky brand, which comes in nearly identically shaped bottles and packaging to Johnnie Walker Black Label. Diageo was awarded US\$183,000 in damages in the case, an unusually high amount for intellectual property (IP) cases in China, in the midst of an anti-piracy campaign by the city government. The case was run under the Law Against Unfair Competition.

### **Beijing tightens rules on overseas investments**

The Ministry of Commerce has released draft rules tightening supervision on overseas investments by mainland firms amid concerns about losses as the financial crisis deepens. The draft rules said overseas investments exceeding US\$100 million must be approved by the ministry. Approval is also required for investments in countries that have no diplomatic relations with China, and in overseas infrastructure projects in high-risk areas.

### **PRC issues partnership tax circular**

The Ministry of Finance ("MOF") and the State Administration of Taxation ("SAT") jointly issued a crucial tax circular addressing the unified tax treatment of partnership enterprises on December 23, 2008. The most significant aspect of this circular is that it confirms partnership

enterprises are entitled to pass-through tax treatment, irrespective of whether the partners are natural persons or legal persons (incorporated entities). A partnership enterprise will not be subject to tax and, instead, each of the partners will be liable for tax only in their separate and individual capacities. Natural person partners will be liable for individual income tax and legal person partners will be liable for enterprise income tax on the income they recognize from the “production, business operations and other activities” of such partnership enterprise.

### **Draft of Radioactive Waste Safety Regulations**

The "Radioactive Waste Safety Regulations (Draft)" was examined and approved in principle by the Environmental Protection Department. The Regulations further stipulate the responsibilities of the relevant departments with respect to the safety of the radioactive waste, implement the operational mechanism and management responsibilities of the radioactive waste storage and disposal units, and stipulate the principal supervisor, requirements of supervision and inspection, as well as the prosecution and disposal and so

on. The "Radioactive Waste Safety Regulations (Draft)" will be submitted to the State Council for consideration after further revision.

### **Amendment to Copyright Act approved**

Seeing that the raging online copyright infringement largely occurring on the service platforms provided by Internet service providers (ISPs) has been plaguing worldwide copyright protection to the extent where copyright right holders have been limited in attempts to take legal action against these cyberspace crimes, the Taiwan Intellectual Property Office (TIPO) drafted an amendment to the Copyright Act that specifies the liabilities of ISPs involved in online copyright infringement occurrences. The amendment, which was approved By the Executive Yuan on September 2008, intends to meet the demands of ISPs and copyright holders and also keep steps with actual ISP practices.

*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.*