



MMLC Group – China Update

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Business News

Coke to spend \$2b in China

Coca-Cola plans to invest US\$2 billion in China over the next three years. The new planned spending will come on top of the US\$2.4 billion the firm has earmarked for acquiring Chinese beverage maker Huiyuan Juice Group, and far outstrips the US\$1.6 billion Coke has invested in China since 1979. The proposed acquisition is pending approval by China's Ministry of Commerce under the country's new anti-monopoly law.

Zinc takeover gets Australian approval

China's third-largest zinc producer Shenzhen Zhongjin Lingnan Nonfemet moved closer to a takeover of Australian miner Perilya after receiving Australian government approval for its purchase bid. Australia's Foreign Investment Review Board approved Shenzhen Zhongjin Lingnan Nonfemet's offer of US\$29.2 million for a 50.1% stake in Perilya. The bid is still subject to approval by Perilya shareholders, but has been endorsed by Perilya's board and is expected to go ahead.

Zinc and ore mined by Perilya could be sent to China for smelting as early as 2010.

Norwegian paper firm plans to sell mainland assets

Norwegian paper-maker Norske Skogindustrier is trying to sell its mainland newsprint business to Chinese companies such as Shandong Chenming Paper Holdings and Shandong Huatai Paper in an effort to cut debt. The bid to offload further assets comes after the company raised about US\$800 million in June last year from the sale of its paper mills in South Korea to Morgan Stanley Private Equity Asia and Shihan Private Equity. While China is now Norske's main Asian production base, the stock market plunge in the second half of last year as well as a weaker outlook for the newspaper industry is expected to make its latest deal much smaller.

Sanyuan buys scandal-hit Sanlu dairy company at auction

Beijing-based dairy producer Sanyuan has bought Sanlu Group, the Chinese dairy company at the center of last year's milk contamination scandal. Sanlu was declared

insolvent by a court and was auctioned in North China's Hebei Province on 4 March at the Intermediate People's Court of Shijiazhuang. It was sold to Sanyuan for 616.5 million yuan (US\$90 million).

Rio Tinto close to selling assets to China

Rio Tinto is thought to be close to selling a \$US8 billion (\$12.5 billion) stake in key assets to Chinalco in a deal that could give the state-owned company a strategic foothold on Australia's iron ore, coal and aluminum reserves. The miner is reportedly looking at a \$US15 billion combination of asset sales, convertible notes and share issues that would increase the Chinese giant's stake in dual-listed Rio to more than the 11 per cent level for which it has Australian government approval. The deal would be one of China's biggest strategic overseas investments outside the financial sector and help secure more security of supply for its mineral resources.

New measures to boost service outsourcing

The Chinese government has announced a raft of tax breaks and subsidies to encourage the growth of services outsourcing. The measures to boost the development of service outsourcing were outlined in a document drafted by the Ministry of Commerce and approved by the State Council, China's Cabinet. 20 cities, including Beijing, Shanghai, Xi'an, Suzhou and Hangzhou, had been identified as pilot service outsourcing regions, where companies are eligible for favorable policies. The measures include a series of tax and fiscal policies and intellectual property rights protection measures.

More Silk Street shops shut down

Seven more merchants of the China capital's Silk Street Market, a well known as a place to pick up cheap designer knock-offs, were ordered to shut down for a week

after they were found selling fake goods. An intellectual property rights protection company representing Gucci, Louis Vuitton, Prada, Chanel and Burberry, revealed all the seven merchants had sold fake clothing or bags carrying labels of the five world-renowned high-end brands. The employees of the shops have been holding day and night vigils outside of the IP agency that filed the complaints, claiming that it is causing job losses and not sympathetic to China's working class.

IBM buys Changhong Electric stake for 108m yuan

IBM China has bought a 1.56 percent stake in Changhong Electric Co Ltd for about 108 million yuan (\$15.79 million). The deal makes IBM China the second largest shareholder in Changhong, one of the country's largest TV manufacturers. Following the share sale, Changhong Group holds a 29.08 percent stake in the Shanghai-listed company.

China's economy likely to rebound

China's economy may start to rebound in the second quarter of the year as an increase in domestic demand outpaces the fall in exports. The economic growth is likely to bottom out between the fourth quarter of 2008 and the first quarter of 2009. Almost all major monthly indicators, including industrial production, power output and retail sales, point to a recovery. The Ministry of Commerce and NDRP has recently said that in the first quarter, export growth could fall further, but domestic demand is likely to gain some momentum, adding that the two forces will offset each other and lead to a GDP growth similar to the fourth quarter.

China punishes 15,000 enterprises over pollution in 2008

China made progress last year in pollution abatement. About 15,000 enterprises were punished for pollution last year and nearly

100 people deemed responsible were disciplined. 156 projects totaling 473.7 billion yuan (\$69.25 billion) were rejected last year because they were deemed to be energy-intensive or highly polluting. Approved projects, numbering 579, will prevent the emission of 468,600 tons of sulfur dioxide and 38,400 tons of chemical oxygen.

China's online game market grows 76.6% in 2008

Sales revenue of China's online game market grew 76.6 percent in 2008 to 18.38 billion yuan (\$2.69 billion), making it one of the few industries that were not impacted by the world's economic slowdown. The number is expected to grow to 94.53 million by 2013, with industry sales revenue hitting 39.76 billion yuan. The online game industry also stimulated 31.28 billion yuan in telecom revenue last year, an increase of 20 percent over 2007.

China's cross-border M&A dropped by 30% in 2008

China's cross-border merger and acquisition (M&A) activities in 2008 remained active, though it dropped by 30 percent year-on-year in terms of transaction amount. The media/telecom and energy industries, accounted for \$20.23 billion and \$7.8 billion respectively.

Auto sector gets a shot in the arm

Sales tax on vehicles with engines of less than 1.6 liters will be halved and exchange of old vehicles for new ones with smaller engines subsidized to boost the auto industry. The stimulus package for the country's auto industry is expected to boost the steel industry and designed to promote fuel-efficient and low-emission vehicles, too. The government said it would support the alternative-energy vehicle sector by promoting the mass production of electric-powered cars in big and medium cities.

Angang Steel raises stake in Australian ore producer

Angang Steel Co, China's third largest steelmaker by output has acquired additional shares in Gindalbie Metals for 740 million yuan (\$108.35 million), boosting its holding in the Australian iron ore producer to 36.28 percent. The Chinese company bought a 12.94 percent stake in Gindalbie for 251 million yuan in June 2007. The latest purchase has made Angang the largest single shareholder in Gindalbie.

Cofco to buy Beijing instant noodle maker for 250m yuan

Cofco Ltd, China's largest agricultural trading and processing company has offered to take over Wugudaochang, a Beijing-based instant noodle maker, for 250 million yuan (\$36.55 million). Wugudaochang, which filed for bankruptcy restructuring in November last year, has debts of 600 million yuan against 40 million in assets. Cofco has also undertaken to hire the workers of Wugudaochang on a preferential basis.

Alibaba to hire 5,000 in 2009

The parent company of Alibaba.com said it would hire up to 5,000 people in 2009, increasing the internet firm's headcount to 17,000. The hiring will be focused on China, but staff will also be added in the US and Europe. Alibaba's expansion comes at a time when technology companies in the US are laying off workers to cut costs. The firm has offered cheaper packages to encourage companies to market their products on its site as China's export sales decline due to the global financial crisis.

Legal News

China amends Patent Law

China's top legislature has approved a revision of the Patent Law and made a number of amendments to the patent application process and expanded the patent protection. This was the third revision to the law. The previous two amendments were enacted in 1992 and 2000. The third revised patent law will take effect on Oct 1, 2009. The amendments mainly refer to the following aspects:

- Genetic Resources
- Double Patenting
- Joint Ownership
- Inventions Made in China
- Novelty Bar
- Compulsory License
- Prior Art Defense
- Regulatory Review Exemption

Full details and analysis is available from our Beijing office.

Regulations on registration of technology import/export are amended

The Ministry of Commerce (MOFCOM) promulgated the amended Administrative Measures on Registration of Technology Import and Export Contracts on February 1, 2009. The new rules take effect 30 days after promulgation and supersede the previous Measures promulgated in 2001. The new Measures do not change the basic regime requiring that contracts for the import and export of technologies that may be freely imported/exported, must be registered through MOFCOM's online system. Further, the regulation does not seem to repeal the provisions in the old law regarding mandatory clauses to be included in technology import and export contracts involving China.

Ministry publishes new Anti-monopoly Law guidelines

The Ministry of Commerce has issued following significant new documents related to merger filings under the Anti-monopoly Law, which are effective as of January 1 2009:

- Working Guidelines for Anti-monopoly Investigation of Concentrations of Business Operators
- Guiding Opinion on Reporting of Concentrations of Business Operators
- Guiding Opinion on Documents and Information Required for Reporting of Concentrations of Business Operators
- Flowchart for Anti-monopoly Investigation of Concentrations of Business Operators

IP foreign licensors need to follow China's latest tax laws

Cross-border intellectual property transfer has been growing rapidly in international trade. IP transfers may be accomplished by various methods, which may have different tax consequences. Currently, China is experiencing a new round of tax reforms, with the new Enterprise Income Tax Law and the new business tax regulations having entered into effect in 2008, and the Implementation Measures of Special Tax Adjustments (Provisional) issued in January 2009. The Provisional Measures have established detailed rules for transfer pricing.

Food safety law

China has introduced its first food safety law in order to develop unified national standards for food safety. The law, adopted by the National People's Congress Standing Committee, will establish a cabinet-level commission tasked with reducing regulatory overlap and increasing the legal liability of food producers. Criminal and civil penalties for food safety violations will be strengthened, and producers will be required to keep more detailed records of their activities. Last year, milk powder tainted

with the chemical melamine killed six children and left 300,000 ill.

Samsung loses lawsuit

Samsung Electronics Co has been ordered to pay 50 million yuan to a company - Holley Communications in Eastern China's Zhejiang province for infringing the latter's dual-mode cellphone patent. The 2 year old patent dispute started when Holley filed the lawsuit in April 2007 calling for a halt of the violation and seeking compensation. A month later, Samsung requested that China's State Intellectual Property Office declare that the patent was invalid. The court opened the session in May this year after the SIPO declared it to be valid.

200 rogues stop judges executing court order

A gang of 200 rogues successfully prevented 10 judges and court bailiffs from executing a court order in Hebei province, dealing another severe blow to the country's frail rule of law. The officials

travelled from Beijing's Tongzhou county to Zunhua city, Hebei province, to renew an order freezing 900,000 yuan (HK\$1,022,900) in bank accounts owned by Hebei-based Tangshan Jinbaili Beer Company. When the judges arrived at the bank at 10am, they were immediately cordoned off from the bank tellers by a row of men in blue uniforms. They were also stopped from leaving the bank when their car was surrounded. Finally at 4pm, after seeking instructions from the Beijing High People's Court, the Tongzhou judges released the funds and were allowed to leave the bank. The 900,000 yuan was transferred within minutes. The Beijing High People's Court has reported the incident to the central government and is seeking co-operation from the Hebei High People's Court, to enforce the court orders against the Tangshan Jinbaili Beer Company.

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.