



MMLC Group – China Update

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Business News

Ticket price of Beijing-Shanghai express likely 500 yuan

The ticket for a hard seat on a Beijing-Shanghai high-speed train will likely be priced at about 500 yuan (\$73). But the price still needs to be approved by the National Development and Reform Commission, China's top economic planning body. The train has a designed speed of 350 kilometers per hour, and it will only take about four hours to travel the 1,318 kilometer long rail line between Beijing and Shanghai. Construction of the new high-speed Beijing-Shanghai railway began on April 18, 2008, and it will be completed in time to begin operations in 2012.

Record number of Chinese firms join Fortune 500

An all-time record number of Chinese companies appear in the 2009 Global Fortune 500 list of top global companies. China Petroleum & Chemical Corp, also known as Sinopec, made its top 10 debut, coming ninth in the rankings, while a total of 37 Chinese firms made the top 500, including nine new entrants. There new

entrants were, in descending order of rank: Jardine Matheson, CITIC Group, China Unicom, China Huaneng Group, Aviation Industry Corp of China, China South Industries Group, Jiangsu Shagang Group, Bank of Communications and the Aluminum Corp. of China. The top spot in the list went to Anglo-Dutch energy giant Royal Dutch Shell.

China on course to become world's largest auto market

Chinese auto sales increased at the quickest rate this year in June, putting the country on course to top the US as the world's largest auto market. Sales rose 36.5% year-on-year in June to 1.4 million units, the fourth month in a row that volumes have topped 1.1 million units. Meanwhile, US car and light truck sales dropped 28% year-on-year to 860,000. New car and truck sales in China are expected to top 11 million units in 2009 - up 17.3% on the previous year - with US sales likely to come in at just 9.69 million units.

Protest over plant pollution escalates in China

Villagers took to the streets in Zhentou Township, central China's Hunan Province, again on 30 July, protesting detentions the previous day during demonstrations against pollution problems caused by a chemical plant - Xianhe Chemical Plant. The villagers were asking for free health check-ups, free medical treatment if they were shown to have complaints resulting from the pollution and compensation for despoiled crops and land. In the most recent protest, villagers protested detention of six villagers and demanded a solution to the plant's pollution problems once and for all.

Mengniu Dairy to sell 10% stake

China Mengniu Dairy would raise HK\$3.058 billion (\$394.56 million) from a share sale to China National Oils, Foodstuffs and Cereals Corp (COFCO) and Hopu Investment Management. Through a special purpose vehicle, both COFCO and Hopu would subscribe for the shares at HK\$17.60 a piece. COFCO will own a 70 percent stake in the special purpose vehicle, and Hopu will own the remaining 30 percent, while the pair will buy a further 10 percent in the dairy from existing shareholders at the same price to raise their overall stake to marginally above 20 percent.

China's forex reserves top \$2 trillion

China's foreign exchange reserves have exceeded US\$2 trillion for the first time, demonstrating Beijing's difficulty in finding places to invest. The reserves reached US\$2.13 trillion in the second quarter, an increase of US\$178 billion, compared with a US\$7.7 billion gain in the first quarter. The People's Bank of China (PBOC) has ruled out a change in management of the reserves even as Premier Wen Jiabao expressed concerns that US\$763.5 billion in US treasuries will fall in value as Washington

sells large amounts of debt to fund its stimulus package.

CSRC allows issuance of exchange-traded bonds

The China Securities Regulatory Commission (CSRC) has lifted its 10-month ban on issuing exchange-trade corporate bonds. The CSRC has approved Shanghai Yuyuan Tourist Mart's application to issue US\$73.2 million worth of bonds. The lifting of the ban comes after the CSRC allowed for the resumption of IPOs last month. Prior to the halt in bond issues, nearly 40 companies, including PetroChina and China Petroleum and Chemical Corp, had gained regulatory approval to issue approximately US\$20.5 billion worth of bonds.

CISA to curb speculative iron ore trading

China may cancel the iron ore import licenses of some steel mills and trading companies in an effort to regulate the domestic iron ore market and curb speculative trading. At present 112 steel mills and traders are licensed to import iron ore; approximately 20 importers are expected to lose their licenses. Under the CISA's new import scheme, licensed importers would sell iron ore to non-licensed mills at the contract price plus a 3% to 5% agent's fee. China imported approximately 440 million metric tons of iron ore in 2008, about 50% of which was bought on the spot market.

Air China books 50% 1H profit

Air China's first-half profit increased by 50% year-on-year due to lower fuel costs and higher travel demand in 2009. Last year, the airline reported a US\$187.3 million first-half profit under Chinese accounting standards. A 56.7% increase in oil prices between the end of 2008 and June 2009 also helped to reduce paper losses on hedging contracts. Air China booked a US\$5.85 million gain on hedging contracts during the

first quarter. The expected resumption of a jet fuel surcharge on ticket prices is also expected to offset the airline's fuel charges.

NDRC, MOFCOM square off over Hummer deal

The National Development and Reform Commission (NDRC) and the Ministry of Commerce (MOFCOM) are squaring off over the regulatory approval needed for Sichuan Tengzhong Heavy Industrial Machinery to acquire the Hummer brand from General Motors. The NDRC is opposed to the deal due to environmental concerns over the Hummer's design and Tengzhong's unclear plans for the brand. MOFCOM is seeking to approve the acquisition, calling it normal behavior for a company seeking to take advantage of an economic downturn. Should Tengzhong gain the approval of MOFCOM but not the NDRC, the company would be able to proceed with the deal, but would be unable to move any manufacturing facilities to China.

Huadian Power International buys into upstream businesses

Huadian Power International Corporation, China's largest independent power producer, announced that it was buying into two Shanxi coal companies through one of its wholly-owned subsidiaries. It bought a 70 percent stake in each of the two coal companies for 397.6 million yuan (\$58.19 million) and 362.6 million yuan respectively. One of the coal miners will be put into production by the end of this year and the other by the first half of next year.

Fiat JV among 9 deals inked with Italy

Italy's Fiat and China's Guangzhou Automobile Group will launch a multi-billion yuan joint venture to produce Fiat cars in Changsha, Hunan province. The work will begin in the second half of 2011. The agreement was one of nine signed by

the Chinese and Italian sides during President Hu Jintao's state visit to Italy. The other agreements focus on encouraging bilateral cooperation in investment, the high-tech sector, tourism, culture and insurance.

MAN takes of a 25% stake in Sinotruk

MAN has acquired a 25 percent stake in China's largest manufacturer of heavy trucks, Sinotruk. Valued at €560 million (approx US\$794.2m), the deal enables a long-term strategic cooperation between the two market leaders to develop and produce heavy trucks in China that are geared to the needs of emerging markets, and for MAN to licence certain technology to Sinotruk.

CIC buys stake in Diageo

British beverage maker Diageo announced that China's sovereign wealth fund, China Investment Corporation (CIC), has taken a 1% stake in the firm. The stake is valued at US\$367.8 million at current market prices. The investment follows Diageo's recent expansion drive in China where it is playing catch-up to its French rival Pernod-Ricard.

China to use forex reserves for overseas expansion

China will use its more than US\$2 trillion in foreign exchange reserves to support and accelerate overseas expansion and acquisitions by Chinese companies. Premier Wen Jiabao told Chinese diplomats earlier that China "should hasten the implementation of our 'going out' strategy and combine the utilization of foreign exchange reserves with the 'going out' of our enterprises." China's outbound non-financial direct investment increased to US\$40.7 billion in 2008 from US\$143 million in 2002.

China launches major solar subsidy

China launched a plan to offer significant subsidies to independent solar power projects. The move is aimed at boosting the country's solar energy sector and could draw more than US\$10 billion in private funding, putting China on track to become a leading market for solar equipment in the next couple of years. The Ministry of Finance announced that the government will subsidize 50% of investment for solar power projects as well as relevant power transmission and distribution systems that connect to existing power grid networks.

Alcatel-Lucent, Datang Mobile to deploy TD-SCDMA networks

Alcatel-Lucent has been selected, together with Datang Mobile, to deploy mobile networks for China Mobile in 11 Chinese provinces. The group will launch China Mobile's phase three mobile networks running on TD-SCDMA, China's homegrown third generation mobile standard. Alcatel-Lucent and Datang Mobile, a unit of Datang Telecom Technology, have had a strategic partnership since 2004 to expand TD-SCDMA solutions in China.

China Merchants looks to set up branches in Taiwan

China Merchants Bank, as one of at least five Chinese banks applying to open branches in Taiwan, has participated in the discussion of a financial-services agreement between the mainland and Taiwan. The Industrial & Commercial Bank of China (ICBC), the world's largest lender by market value, and Bank of Communications also plan to set up branches in Taiwan. Currently, the Bank of China is the only mainland bank permitted to conduct foreign-currency exchange with Taiwan.

China tightens dairy imports

The Ministry of Commerce (MOFCOM) announced that it is tightening controls on imports of dairy products in order to protect a domestic dairy industry that has struggled to rebound from last year's contamination scandal. The new rules stipulate that importers of fresh milk, milk powder and whey will need to obtain an import license each time they ship products into the country starting in August. Importers must also provide detailed information about imports to the government.

China Pacific planning relaunch of Hong Kong IPO

China Pacific Insurance is planning to relaunch its Hong Kong IPO, after its first attempt failed last year when markets nosedived. The company has reportedly been in early discussions with several investment banks for a new Hong Kong IPO aimed at excluding a minimum listing price condition that had previously been required. China Pacific has also pledged not to list shares in Hong Kong at a value below its December 2007 Shanghai IPO of RMB30 (US\$4.39) per share.

Former Sinopec chairman convicted of corruption

The former chairman of China Petroleum and Chemical Corporation (Sinopec) was convicted of corruption by a court in Beijing. Chen Tonghai, who was convicted of taking some US\$28.7 million in bribes, was given a suspended death sentence. The court ruling stated that "all his political rights were deprived for life and all his personal property confiscated." Chen is also expected to serve a life term in prison.

China builds its biggest wind farm

China will break ground on its largest wind farm project in about two weeks in Gansu province in the northwest as part of a major

push for renewable energy in the coming decades. The planned wind power plants in Jiuquan will have an installed capacity by 2020 comparable to the world's biggest hydropower project on the Yangtze River. The 120 billion yuan (HK\$136 billion) project had been approved by the National Development and Reform Commission. The total installed capacity of the wind farms is expected to increase from 660MW now to 5,160MW next year, 12,710MW in 2015 and 20,000MW in 2020.

Beijing Automotive proposes \$2.25b investment in Opel

Beijing Automotive Industry Holding Co (BAIC) plans to invest US\$2.25 billion in General Motors' (GM) European Opel unit to increase production capacity in China by 2015. BAIC would expand production in China to 485,000 Opel cars by 2015 and also build a network of 400 dealerships over the same time period. BAIC has offered US\$922.6 million for a 51% stake in Opel. GM would retain the remaining 49%.

Legal News

MIIT issues circular on software enterprise certification and product registration

On June 11, 2009, the Ministry of Industry and Information Technology of the PRC (MIIT) issued a circular to strengthen the administration of software enterprise certification and software product registration. The purpose of the Circular is to facilitate government authorities' orderly certification of software enterprises and software in accordance with two sets of previously issued administrative measures. The Circular states that competent local authorities and certification bodies must strictly comply with the Software Enterprises Measures and Software Product Measures in verifying software enterprises and registering software products. Under the Software Product Measures, software products are subject to registrations and filings with competent government authorities, and no software product may be operated or sold in China without valid registration and filings. The Circular emphasizes that software product registrations must conform to the Software Product Measures. Further, the Circular provides that before a software product completes registration with the relevant government authority, it must go through a seven-day public announcement period.

SPC issues new rules on distributing jurisdiction of IP administrative cases

The Supreme People's Court (SPC) recently released a circular on 'The rules of distributing jurisdiction of IP administrative cases concerning the grant of rights and recognition of patents and trade marks'. It indicates that from 1 July 2009, the IPR tribunals of the two Intermediate People's Courts and the High People's Court of Beijing, together with the SPC, would have exclusive jurisdiction for the first and second

instance of IPR administrative cases, regarding the grant of rights and recognition for patent, trademark, layout design of integrated circuit and new variety of plants. According to a principal from SPC, this is an important measure in the refining of the Chinese IPR trial system.

426,000 patent applications filed in the first half of 2009

According to the latest statistics from SIPO, 426,000 patent applications were received during the first half of 2009, which represents an increase of 23.1% from the previous year. Statistics also reveal that 252,000 patents were granted, which marks a 31.3% annual increase. Of the 426,000 patent applications, 375,000 were domestic applications which represent 88% of the total and an annual increase of 28.9%. There were 51,000 foreign applications, which marked an annual decrease of 7.3% - constituting only 12% of the total applications. In terms of types of patents, there were 148,000 invention applications (34.8%), 142,000 utility models (33.4%) and 136,000 designs (31.8%).

Anti-Monopoly Committee issues new guidelines on relevant market definition

The Anti-Monopoly Committee of the State Council issued Guidelines on Relevant Market Definition on 24 May 2009. The Guidelines were enacted in accordance with the PRC Anti-Monopoly Law (AML) for the purposes of providing guidance on relevant market definitions and improving the transparency of law enforcement of the anti-monopoly law enforcement agency under the State Council.

● Concept of Relevant Market

➤ Relevant market - the product scope and geographic scope within which the business operators compete with each other in a certain period regarding particular products or services

(hereinafter collectively referred to as products).

➤ Relevant product market - a market comprised of a group or a category of products that are considered by the consumers to have a relatively close substitution relationship based on factors such as characteristics, uses and prices of the products.

➤ Relevant geographic market - a geographic area within which the consumers acquire the products that have relatively strong substitution relationships.

● Basis for Relevant Market Definition

➤ Demand Substitution - to determine the degree of substitution among different products from the perspective of consumers according to the products' functions and uses, quality recognition, price acceptance and their availability for the consumers.

➤ Supply Substitution - to determine the degree of substitution among different products from the perspective of business operators according to the investment made by the other business operators for renovations of the production facilities, risks to be assumed and time to enter into the target market.

● Main Factors to be Considered in the Definition of Relevant Product Market

1) Evidence showing consumers shift to or consider a shift to purchasing other products due to a change of the products' price or change of other competitive factors;

2) Products' overall characteristics and uses including the products' exterior shapes, peculiarities, qualities, technical features ,etc;

3) Products' price variance;

4) Products' distribution channel;

5) Other important factors.

● Main Factors to be Considered in the Definition of Relevant Geographic Market

1) Evidence showing consumers shift to or consider to a shift to other geographic areas to purchase products due to change of the products' price or change of other competitive factors;

2) Products' transportation cost and transportation characteristics;

3) The actual regions where the majority of consumers choose their products and the product distribution locations of the main business operators;

4) Trade barriers among geographic areas, such as tariffs, local regulations, environmental factors, technological factors, etc;

5) Other important factors.

It remains to be seen how closely these guidelines will be followed by the regulator in practice.

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.