



MMLC Group – China Update

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Business News

Beijing plans subsidised prices for solar projects

Beijing is expected to unveil subsidised prices for solar power production to enable mass adoption of the previously prohibitively expensive green electricity on the mainland. Beijing planned to give a tariff of RMB 1.09 per kWh for solar panel farms. China already possesses a large number of solar cell manufacturers, with consolidation being expected and encouraged according to government sources.

Sinopec reaches CAN\$8.27b deal to acquire Addax Petroleum

China Petrochemical Corp, the second-largest oil company on the mainland, has agreed to pay CAN\$8.27 billion for Addax Petroleum Corp, a Toronto and London-listed firm that owns assets in Africa and Iraq. Sinopec is offering CAN\$52.80 for each Addax share, being a 47 percent premium to the stock's last traded price in Toronto on June 5 before suspension. The

deal requires approvals from holders of 66.6 per cent of Addax shares and the mainland government (the Ministry of Commerce, National Development Reform Commission, State Assets Board, and the State Administration of Foreign Exchange). The deal is hot on the tracks of Sinopec's acquisition of Tanganyika in 2008.

China National Petroleum Corp, and China National Offshore Oil Corp were also interested in a deal with Addax. CNOOC and CNPC are also planning bids of as much as US\$4 billion for the principal asset of US-based Kosmos Energy.

AU to enter LCD module JV with Changhong

Taiwan-based LCD manufacturer AU Optonics will create a US\$14.6 million joint venture with Sichuan Changhong, a mainland TV maker, to produce LCD modules on the mainland. AU is

strengthening its presence on the mainland to take advantage of Beijing's stimulus package, which has boosted demand for the products of AU's branded clients. AU will own 51% of the joint venture, which is to be named BVCH Optronics (Sichuan).

Beijing Auto may challenge Geely for Volvo

Beijing Automotive Industry Holding Co may bid for Ford Motor Co's Volvo Car Corp unit, and is expected to send executives to Volvo's Gothenburg headquarters in Sweden. The Chinese delegation is to tour Volvo's factories and review its books. Geely, China's biggest private automobile maker, remains the frontrunner among companies interested in buying Volvo. Geely executives toured Volvo's plants and reviewed its books in April.

Beijing may review Rio-BHP joint venture

The Chinese government, obviously upset with Rio's rejection of the offer by Chinalco, has said its anti-monopoly law gives it the right to review the proposed Australian joint venture between mining firms Rio Tinto and BHP Billiton. The government had not received an application for review from the two companies, but noted that the law's clauses on industrial concentration could be the basis for the review. While neither company is based in China, the anti-monopoly law requires companies with combined global sales over US\$1.46 billion or China sales of US\$292.56 million to submit their case to Beijing for review.

KKR buys stake in dairy firm

Private equity firm KKR & Co has invested US\$150 million in domestic milk supplier Ma Anshan Modern Farming. No financial details

were released, but one source said KKR's stake is expected to be at least 20%. Ma Anshan will use the money to build 20 to 30 large dairy farms to add to the seven it operates now. The investment is KKR's second in China after it bought a stake in Henen-based Tianrui Group Cement in 2007.

Matthew Perrin lost the lot in China

Matthew Perrin, the ex-CEO of surfwear group Billabong International, has become bankrupt after a new venture to roll out retail sites in China collapsed. There are allegations of widespread impropriety at the Global Mart business. However, it is not yet clear how Perrin managed to lose his entire fortune of around \$A150m, with the Chinese operation only accounting for about \$A40m.

CIC to invest additional \$1.2b in Morgan Stanley Investment

Sovereign wealth fund China Investment Corp (CIC) announced that it will spend US\$1.22 billion to increase its stake in Morgan Stanley to 9.88%. CIC has agreed to buy 44.7 million shares, equal to 55.73% of the 80.2 million shares that the bank is offering, at a share price of US\$27.44. CIC's initial US\$5.6 billion investment in Morgan Stanley was its second significant investment after its establishment in late 2007.

Exporters get sops to fight crisis

China has raised tax rebates for more than 600 export items, some up to the maximum level possible, as it stepped up efforts to provide succor to businesses battling the global economic slowdown. The Ministry of Finance had increased tax rebates ranging from 5 to 17 percent on export products, including ethanol, toys and sewing machines, effective June 1. The

export tax rebate scheme allows enterprises to get back part or all of the money they have paid in value-added tax, which stands at up to 17 percent, for items that have gone into the production of export goods.

China SAFE encourages China's "capital export"

The State Administration of Foreign Exchange (SAFE), China's foreign exchange regulator, has issued a series of new rules aimed to further facilitate Chinese companies' overseas investments, and will further ease controls on foreign exchanges in coming months. The regulator has partially eased the control on and cut red tape to quicken the approval of the use of foreign exchanges. It has also solicited opinions on overseas investments to attract more Chinese companies to invest abroad. The SAFE will release revised rules on the use of foreign exchanges in foreign trade, which are expected to facilitate exports.

OZ Minerals rejects refinancing bid commodities

Australian miner OZ Minerals rejected a US\$1.22 billion recapitalization proposal in favor of proceeding with a shareholder vote on an investment by China Minmetals Non-ferrous Metals. OZ said it rejected the joint recapitalization offer because it "wasn't sufficiently certain," and offered no clear advantages over the proposal to sell assets to Minmetals.

China Shanxi steel mills forge ore deals

China Steel mills in Shanxi province have reportedly signed long-term contracts with foreign miners for this year's iron ore supply despite the national steel association banning steelmakers from making individual contracts. It

said these mills did not accept the 33 percent cut on last year's price, which has been agreed by Japanese and South Korean players but it did not elaborate. The China Iron and Steel Association (CISA) is reportedly seeking to stop Chinese mills and traders from taking part in setting "speculative" prices by taking part in auctions on the spot market.

Coca-Cola, GE and Wal-Mart may seek mainland listing

UBS said that Coca-Cola, General Electric and Wal-Mart Stores are among United States-based companies that might seek to list on China's stock exchanges, the US companies would benefit from higher valuations on the mainland's stock exchanges, and the mainland would gain by expanding choices for its investors, improving corporate governance and helping the exchanges become more "internationally oriented", so besides Hong Kong-listed stocks and mainland companies, the central government might allow western companies in the consumer and manufacturing industries to offer shares.

Suning to buy stake in Laox Consumer

Suning Appliance announced that it will buy a 27.36% in Japanese retailer Laox. The Chinese consumer electronics company has agreed to pay US\$ 8.4 million for the stake in its Japanese rival which will also make it the largest shareholder in the all-cash deal. The deal is reportedly part of Suning's long-term growth strategy and the company said that deal will allow it to gain experience in the international consumer electronics market via exposure to Japan.

China turns to tobacco tax to raise revenue

China has increased taxes on tobacco products, taxes went up on cigarette cartons costing RMB

70 or more to 56 percent from the previous 45 percent rate. Tax for cigarette cartons costing less than RMB 70 rose from 30 percent to 36 percent. The tax on cigars rose to 36 percent from 25 percent. Meanwhile an advalorem tax, based on the real value (less inflation factors) of the product, was introduced on tobacco products for the first time, at 5 percent.

Wind Power

China National Climate Center (NCC) said China's potential wind power resources alone are sufficient to meet its entire electricity demand. China's onshore wind power potential has been evaluated at between 700 GW and 1,200 GW, exactly within the range of the country's 790 GW power generating capacity for 2008. China would soon devise favorable policies to develop mega wind power farms, each with over 10 GW capacity.

Concerns behind real estate market revival

China's seemingly healthy real-estate market recovery is being eclipsed by the increasing number of returned property. Developers of the above-mentioned projects maintained sales are strong. Despite the many explanations, some insiders worry that false mortgages filed by developers are behind the trend, property developers use their employees or relatives' identities to buy properties with loans cheated from banks, and then return the property for sale when the market recovers. False mortgage can cause serious consequences, as bad debts will increase if developers face financial strain and can't pay back the loan.

Hong Kong's property prices forecast to see double-digit gains

Hong Kong's property market may be entering better times, with two big investment banks talking up prospects for real estate prices. Goldman Sachs upgraded the sector to "attractive" from "neutral". Macquarie said housing prices were expected to increase 15 to 20 per cent this year on the back of limited supply, strong local demand and a growing number of mainland buyers. The US investment bank expected housing prices in the primary and secondary market to grow 5 per cent and 18 per cent respectively this year.

Chinese company to buy Hummer from GM

General Motors Corp. took a key step toward its downsizing, striking a tentative deal to sell its Hummer brand to a Chinese manufacturer, while also revealing that it has potential buyers for its Saturn and Saab brands. China's Sichuan Tengzhong Heavy Industrial Machinery Co. said that it reached an agreement to acquire the brand from GM for an undisclosed amount. The Detroit automaker had announced that it had a memorandum of understanding to sell the brand of rugged SUVs, but it didn't identify the buyer.

MofCom targets US in steel anti-dumping case

The Ministry of Commerce (MofCom) said it had opened an anti-dumping investigation into US steel imports. The announcement came after seven US steelmakers and the United Steelworkers Union brought an anti-dumping suit against China in April. MofCom said the new case would determine whether US and Russian firms had sold a specialized kind of flat-rolled steel used in electrical transformers below market value.

Beijing approves petroleum reserves expansion

Beijing approved construction for a second phase of strategic petroleum reserves, and is planning additional stimulus funding for renewable energy. The second phase of construction is part of China's effort to build stockpiles to cover 90 days of net imports, a standard set by the Organization for Economic Cooperation and Development. It is believed the second phase will have a capacity of approximately 170 million barrels. The plan to introduce stimulus measures for the renewable energy sector remains under discussion and will only later be submitted to the National Development and Reform Commission and State Council for approval. No details on the stimulus measures were provided.

Legal news

China backs off installation of Porn-Blocking software

The Chinese government has backed off an edict that the Green Dam filtering software be installed in all computers beginning July 1. Critics of the software had expressed fears that Green Dam could be used by the government to block Internet sites dealing with controversial topics. The official said users would have the final say on installing the application. China is estimated to have more than 250 million Internet users. The Green Dam software has cost the government more than \$5 million.

China to expose companies breaching product safety rules

China will set up a comprehensive and efficient quality evaluation and rating system within three years. The system would focus on products that have close bearing on people's lives, such as food, the administration has created files on the quality control practices of 89,699 companies in 17 categories.

CSRC requires disclaimer but puts no limit on second board investors

Mainland regulators have stopped short of imposing a widely expected capital requirement for investors seeking to trade shares on the stock market's second board. Unseasoned players, however, will be required to sign a form of disclaimer before they can buy shares on the Nasdaq-style market at the Shenzhen Stock Exchange. Defying expectations, the CSRC did not specify any threshold for retail investors in the new market.

Law may make China government more covert

China's top legislature reviewed for the first time a draft revision to the Law on Guarding State Secrets, underlining the cutoff of Internet or other public network access to the country's confidential information. The draft revision was submitted for deliberation. The draft failed to provide the necessary legal support for the Open Government Information Regulations.

Police break up China's largest online gambling ring

Police in Xianning, Hubei province of China said they have broken up China's largest online gambling ring. The ring was run by six gangs and enabled gamblers to bet on soccer matches and horse racing. It involved approximately 57 people and had operations US\$7.31 billion. Authorities do not expect to recover much of that money as it has been transferred overseas. The online gambling operations were used by senior managers of state-owned companies and government officials who could place bets overseas without applying for travel permits.

China mulls penalty tax on polluting businesses

China is considering levying a tax on polluting businesses to better protect the environment, collecting environmental taxes from polluting enterprises was one of the directions of the country's tax system reform. The country has also enforced stricter penalties on companies that failed to reduce pollutant emissions. The efforts have helped improve the nation's environment.

New Interpretation of the PRC Contract Law

China Supreme People's Court issued its second Interpretation of Several Issues Concerning the Application of the Contract Law, effective as of 13 May 2009. The New Interpretation covers a wide range of issues relating to the conclusion, validity, performance, termination and breach of contracts. It applies to all disputes arising in relation to contracts entered into after the implementation of the Contract Law, and for which no final judgment of a court of last resort has been rendered. The New Interpretation also contains a wide range of specific guidance with respect to some of the more ambiguous provisions of the Contract Law.

SFDA adopted National Drug Coding Management

China's State Food and Drug Administration (SFDA) decided, in the Circular on Implementing the National Drug Coding Management (Circular) recently, to adopt the coding management over drugs which are sold in the market upon approval. Under the Circular, the national drug codes shall refer to the coding marks which are created by the computers for the research, production, operation, use, supervision and administration of drugs with special information. A national drug code will be created for the drug when the drug production and operation application is approved.

Chinese trademark application process will be faster and better in 2009

Two changes at the China Trademark Office likely will result in faster examination of trademark applications filed there. At the 2009 High-Level Forum on Intellectual Property Rights of Chinese and Foreign Enterprises, China announced that the CTMO is shortening its trademark application examination period by almost 50% - from 30 months to 19 months. In addition, last January, a number of new trademark application examiners joined CTMO while many others retired. These changes signal a gradual but meaningful shift in CTMO's internal policy and procedures that may impact all applicants vying for trademark rights in China. CTMO has yet to announce formal implementation of the rules requiring faster examination. However, they are expected to be published soon.

Dunhill claims victory over imitated mark

On 12th March 2009 the registrar of trademarks declared invalid a registration for the trademark DEERLU in Class 25 obtained by French Dunhill Clothing & Accessories Limited, a Hong Kong limited liability company, following an application for a declaration of invalidity filed by Alfred Dunhill Limited:



In arriving at his decision, the registrar considered that French Dunhill's goods were identical to some of Alfred Dunhill's goods and the degree of distinctiveness of Alfred Dunhill's mark was high. Taking into account that the overall impressions created by the two marks were very similar, the registrar held that when French Dunhill's mark was used in relation to Class 25 goods in a normal and fair manner, the average consumer would be confused into

thinking that the goods of French Dunhill and Alfred Dunhill came from the same or from economically linked undertakings. The registrar declared French Dunhill's mark invalid.

China SAIC issues Procedural Regulations on Prevention of Abuse of Administrative Power

These Regulations apply to administrative authorities or organizations, to which laws and regulations grant authority to administer public issues that abuse their administrative powers to eliminate or restrict competition. Under such circumstances, China SAIC or its local counterparts may propose to the competent supervising authorities of such government authorities how to handle such abuses according to relevant laws and regulations.

China SAIC issues Regulations on Procedures for Investigating and Punish Cases Involving Monopoly Agreements and Abuses of Dominant Market Positions

These Regulations set forth the procedures for the SAIC to investigate cases involving monopoly agreements and abuses of dominant market positions and the punishment of relevant business operators. Key provisions of the Regulations include: Every organization or person has the right to report Monopoly Activities to the SAIC. When carrying out investigations, the SAIC may enter the business premises of business operators, make inquiries of such business operators, review and copy documents or materials, seal up or detain related proof and investigate such business operators' bank accounts.

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.