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# China News Alert Issue 52

## Headlines

### Shanghai municipal provisional measures for the supervision and management of investments made by enterprises operating on state-owned assets

With the implementation of the new measures, investments made by more than 60 large state-owned enterprises will become more regulated. The Provisional Measures will come into force on July 1, 2004.

Currently, some more than 60 large enterprises in the Shanghai area (almost all of the large enterprises in the area) are under the control of the State-owned Assets Supervision and Administration Commission (SASAC). In accordance with the Provisional Measures, SASAC will from now on directly supervise and administer the investment activities of these enterprises. The scope of SASAC's supervision authority encompasses:

* Organizing and conducting research on the direction of the investment of state-owned assets;
* Approving annual investment plans;
* Approving investment projects outside the annual investment plans;
* Filing and record-keeping as regards major investment projects; and
* Supervising and administering the inspection process, auditing and post-auditing assessments as regards major investment projects.

### Four state departments drafting proposal on overseas investments of domestic enterprises

The State Development and Reform Commission, Ministry of Commerce, People's Bank of China, and the State Administration of Foreign Exchange (SAFE) are collaborating to draft a proposal to encourage and support domestic enterprises to explore the international market. The proposal provided measures such as relaxing the existing restrictions on the amount of foreign exchange that domestic enterprises may hold, as well as simplifying the relevant procedures to obtaining the requisite government approval with regards to making overseas investments.

As early as of October 1, 2002, SAFE has chosen 14 provinces and cities to test a series of less stringent rules on the flow of foreign exchange in relation to overseas investments of domestic enterprises. These testing zones include the provinces of Zhejiang, Jiangsu, Shangdong, and the City of Shanghai.

The proposal will provide various measures on strengthening the administration of overseas investments of domestic enterprises, and on encouraging domestic enterprises to engage in overseas operations such as processing and assembling, subcontracting projects and strategic resources development.

### CBRC: foreign funded banks have established 192 operational entities in the PRC

According to sources, so far 64 foreign banks from some 19 countries and territories have set up a total of 192 operational entities in the PRC. Among the 192 foreign funded operational entities, 88 have received the approval to provide RMB related services. Total assets of foreign funded banks in the PRC have reached USD49.5 billion. In addition, foreign banks have so far set up 209 representative offices in the PRC.

## Corporate & Commercial

### State Development and Reform Commission to focus on economic reform in 7 areas

The State Development and Reform Commission issued the "Opinions on executing the 'decision' rendered during the 16th Meeting of The Communist Party of China to push forward with the economic reform in 2004" ("Opinions"). According to the "Opinions", the state will focus on conducting economic reform in the 7 following areas:

* Further improving upon the private ownership regime, and pushing forward with the reform of state-owned enterprises;
* Furthering agricultural reform;
* Furthering systemic reform in the financial, taxation, investment and pricing control sectors;
* Furthering administrative reform within the government;
* Further opening up the Chinese market to establish a fully modern market economy in China;
* Furthering the reform with respect to employment and the income distribution system, and improving upon the existing social security system; and
* Pushing forward with the reform in the technology, education, culture and health care sectors.

### China makes public revised anti-dumping regulations

(2004-04-15 00:04:10 XinHua English)

BEIJING, April 15(Xinhuanet)China made public its revised edition of anti-dumping regulations Thursday, which will go into effect on June 1.

The amendment allows the Ministry of Commerce to suspend or terminate anti-dumping investigations and not impose temporary anti-dumping measures or tariffs if the company involved agrees to raise its prices to a level that does not harm the general public.

The ministry may continue its investigation at the request of the exporter after suspending or terminating an anti-dumping investigation according to law.

The ministry may impose anti-dumping tariffs on products if the ruling of its final judgment is in favor of the dumping charges, and the dumping hurts local industry.

The regulation is comprised of 59 articles in six chapters, including general rules, dumping and damage, anti-dumping investigation, anti-dumping measures, anti-dumping tariffs, and period and reviews of price undertaking, and supplementary articles.

China promulgated its first regulations on anti-dumping in 1997.

### State Administration of Industry and Commerce (SAIC) and other state departments jointly issued the "Circular on cleaning up advertising contents"

Recently SAIC, the Ministry of Radio, Film and Television, and The Press and Publications Administration of the PRC issued the "Circular on cleaning up advertising contents" ("Circular"), which requested that the relevant central and regional government departments and enterprises thoroughly clean up the existing advertising contents and rid advertising contents of representations in bad taste, lurid language, misuse of language, untruthful and misleading representations.

### State Administration of Foreign Exchange (SAFE) lifted ceiling on the amount of foreign exchange that domestic enterprises may hold

In order to facilitate the business operations of domestic enterprises, SAFE recently issued the "Circular on adjusting the ceiling on the amount of foreign exchange in the frequent-use foreign exchange bank accounts" ("Circular"). The Circular purported to increase the maximum amount of foreign exchange that could be kept in the frequent-use foreign exchange account of domestic enterprises from 20% of the enterprises' foreign exchange income to 30% or 50% of the enterprises' foreign exchange income, depending on the circumstances. The Circular will come into force on May 1, 2004.

## Taxation

### State Administration of Taxation (SAT) issued circular requesting regional taxation departments to strengthen control on the sources of taxation with regards to foreign invested and wholly foreign owned enterprises

Recently SAT issued a circular to local taxation departments urging the departments to strengthen their control on the sources of taxation with regards to foreign-owned and foreign invested enterprises. In particular, SAT requested regional tax departments to implement a supervision mechanism, a warning mechanism, a reporting mechanism and a public announcement mechanism in respect of the major sources of taxation for foreign invested and wholly foreign owned enterprises to ensure the collection of all taxes owed by these enterprises.

### Department of Finance of the Province of Jiangsu issued the Circular on clarifying the detailed policies on the collection of real estate sales tax

According to the circular, as of the beginning of April this year, residents in the Province of Jiangsu who are currently receiving minimum social security from the government will no longer be subject to any real estate sales tax when purchasing a new home as a result of a government (county-level or above) sponsored relocation program.

At the same time, the circular provided that sales of commercial residential real estate properties, garages, detached and semi-detached real estate properties are all subject to a 4% real estate sales tax.

## Capital Markets

### CBRC to inspect loans made to the iron & steel industry

Recently the CBRC issued the "Circular on dispatching inspection teams to various regions to conduct random inspections with respect to loans given to the iron & steel and other sectors" ("Circular"). According to the Circular, the CBRC will dispatch 5 inspection teams to conduct random inspections in the provinces of Guangdong, Zhejiang, Henan, Hebei, Jiangxi and Jiangsu with regards to loans granted by banking institutions to the iron & steel, electrolyte aluminum, cement, real estate and automobiles industries, in an effort to strengthen the internal control mechanism of banking institutions, and to curb problem debts in the banking sector.

## Foreign Investment

### The "Administrative measures on foreign investments in the commercial sector" promulgated

On April 16, the Ministry of Commerce promulgated the "Administrative measures on foreign investments in the commercial sector" ("Administrative Measures"). According to the Administrative Measures, "foreign invested commercial enterprises" are those foreign-invested enterprises that conduct business operations in the form of commissioned agencies or under license agreements, as well as those foreign-invested enterprises that are engaged in wholesale or retail distribution business operations. According to the Administrative Measures, domestic and foreign investors may from now on freely set up foreign-invested commercial enterprises in accordance with the relevant legislations (and are no longer subject to the previous tentative regimes). The new Administrative Measures have also relaxed the existing requirements with respect to the amount of registered capital for foreign-invested commercial enterprises, as well as the existing requirements with respect to the relevant foreign investors. Also, The Ministry of Commerce has delegated its approval authority to regional governments as regards smaller foreign-invested commercial enterprises or those foreign-invested commercial enterprises that operate under well-recognized Chinese brand names or trademarks.

## WTO

### China issues interpretation bulletin to WTO members on its newly revised anti-dumping rules

On April 14, Chinese officials circulated an interpretation bulletin to WTO members as regards its new anti-dumping rules. The bulletin was mainly prepared in response to the various questions and doubts expressed by the U.S. representatives as regards the new Chinese anti-dumping rules. In the bulletin, the Chinese government also promised to all WTO members that its new anti-dumping rules are fully in compliance with the relevant WTO regulations, and that all confidential commercial information collected by the Chinese government in its anti-dumping and anti-subsidy investigations will be kept confidential.

### Ministry of Commerce announced anti-dumping investigation on trichloroethylene (TCE)

Ministry of Commerce of the People's Republic of China issued Notice No. 11 of 2004, announcing that Trichloroethylene (TCE) imported from Russia and Japan will be under antidumping investigation from April 16, 2004.

The tariff numbers of the imports are 29032200 in Import-Export Tariffs (2003) of the People's Republic of China.

Pursuant to the terms and provisions in Anti-dumping Regulations of the People's Republic of China, Ministry of Commerce will launch an investigation on dumping, dumping margin on Trichloroethylene (TCE) imported from Russia and Japan and on damage, the damage degree brought about by the products to China's relevant industries from April 16, 2004.

The anti-dumping investigation will complete within one year under normal situations, which indicates it will end by April 16, 2005. The period is to be prolonged till October 16, 2005 under special situations. (Information by Network Center of MOFCOM)

### FDA announces rule prohibiting sale of dietary supplements containing ephedrine alkaloids effective April 12

The Food and Drug Administration (FDA) announced today that the final rule on dietary supplements containing ephedrine alkaloids is effective immediately. The rule, which was published on February 11, 2004 in the Federal Register, declares dietary supplements containing ephedrine alkaloids (ephedra) adulterated because such supplements present an unreasonable risk of illness or injury.

Two manufacturers had asked the United States District Court in New Jersey to enter a temporary injunction to prohibit FDA from enforcing the rule. However, the court ruled today that it would not immediately stay the rule. The court ordered the parties to submit additional briefs so that it may decide whether to permanently stay the rule.

"We will take appropriate enforcement actions if needed to stop manufacturers from illegally selling and distributing dietary supplements containing ephedra alkaloids," Health and Human Services Secretary Tommy G. Thompson said. "These products pose unacceptable health risks, and any consumers who are still using them should stop immediately."

On December 30, 2003, FDA issued over 60 letters to manufacturers notifying them of our intent to publish the rule as well as a consumer alert warning the public of the dangers of ephedra and asking that they stop taking these products immediately. "Dietary supplements containing ephedrine alkaloids have been shown to pose a real risk to health," said Dr. Lester M. Crawford, Acting FDA Commissioner. "The court's decision today makes clear that these dietary supplements may not be lawfully marketed while the matter remains under review by the Court."

FDA plans to step up Internet surveillance to determine whether anyone, including the original 60 + targeted firms, is continuing to actively promote and sell these products. FDA has already seen progress in its regulatory efforts, as a majority of the manufacturers to whom letters were sent have ceased selling dietary supplements containing ephedrine alkaloids.

### Final determinations in the anti-dumping duty investigations on certain color television receivers from Malaysia and the People's Republic of China

On April 13, the Department of Commerce (the Department) announced its final determinations in the antidumping duty investigations on imports of certain color television receivers (CTVs) from Malaysia and the People's Republic of China (PRC). The Department found that Malaysian producers/exporters have sold CTVs in the U.S. market at not less than fair value, calculating a de minimis margin for the sole respondent company, Funai Electric. This terminates the investigation with respect to Malaysia. The Department found that PRC producers/exporters have sold CTVs in the U.S. market at less than fair value, with margins ranging from 4.35 percent to 78.45percent.

**Next Step**:The United States International Trade Commission (ITC) is scheduled to announce its final injury determination in the PRC investigation on or before May 27. If the ITC affirmatively determines that imports of CTVs are materially injuring, or threatening to materially injure, the domestic industry in the United States, then the Department will issue an antidumping duty order in early June 2004. If the ITC makes a negative injury determination, the investigation will be terminated and no order will be issued.

**Background**: On May 22, 2003, the Department announced its decision to initiate these investigations. On June 16, 2003, the ITC determined that there is a reasonable indication that industries in the United States are being materially injured by reasons of imports from Malaysia and the PRC of CTVs. On November 24, 2003, the Department announced its preliminary determinations in the antidumping duty investigations on imports of CTVs from Malaysia and the PRC, finding a de minimis margin for the sole Malaysian respondent company, Funai Electric, and margins ranging from 27.94 percent to 78.45 percent for the PRC producers/exporters.

**Petitioners**: The petition requesting these investigations was filed by Five Rivers Electronic Innovations, LLC (Greeneville, TN); the International Brotherhood of Electrical Workers (IBEW) (Washington, DC); and the Industrial Division of the Communications Workers of America (IUE-CWA) (Washington, DC). The petition is supported by labor unions whose employees work for Sanyo Manufacturing Corp. (Forrest City, AR); Sharp Electronics Corporation (Memphis, Tennessee); and Toshiba America Consumer Products, Inc. (Wayne, NJ).

**Critical Circumstances**:The Department preliminarily determined that there is no reasonable basis to believe or suspect that critical circumstances exist with respect to CTVs from all exporters in Malaysia. However, the Department preliminarily determined that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to CTVs from all exporters in the PRC. Subsequently, the Department evaluated the comments from interested parties and reviewed and analyzed the data on the record. For the final determination, the Department has determined that critical circumstances do not exist with regard to imports of CTVs from the PRC. The case regarding Malaysia has been terminated due to the negative finding by virtue of the de minimis calculation.

**Product Description**: For purposes of these investigations, the term "certain color television receivers" includes complete and incomplete direct-view or projection-type cathode-ray tube color television receivers, with a video display diagonal exceeding 52 cm, whether or not combined with video recording or reproducing apparatus, which are capable of receiving a broadcast television signal and producing a video image. Specifically excluded from this investigation are computer monitors or other video display devices that are not capable of receiving a broadcast television signal.

The color television receivers subject to these investigations are currently classifiable under subheadings 8528.12.2800, 8528.12.3250, 8528.12.3290, 8528.12.4000, 8528.12.5600, 8528.12.3600, 8528.12.4400, 8528.12.4800, and 8528.12.5200 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive.

**Final Dumping Margins:**

Country

Manufacturer/Exporter

Percent Margin

Malaysia

Funai Electric (Malaysia) Sdn. Bnd.

(de minimis)

China

Konka Group Company, Ltd.

11.36

Sichuan Changhong Electric Co., Ltd.

24.48

TCL Holding Company Ltd.

22.36

Xiamen Overseas Chinese Electronic Co., Ltd.

4.35

All-Others

21.49

PRC-Wide

78.45

**Case Calendar:**

Event

Date

Petition Filed

May 2, 2003

Initiation Date

May 22, 2003

ITC Preliminary Determination

June 26, 2003

ITA Preliminary Determination

November 21, 2003

ITA Final Determination

April 12, 2004

ITC Final Determination (estimated)

May 27, 2004

Signature of Order (See note below)) (estimated)

June 3, 2004

*Note: This will take place only in the event of final affirmative determinations by both the Department and the ITC.*

**Imports Statistics** \*:

Malaysia

2001

2002

2003

Volume (units)

315,400

1,364,637

1,509,495

Value ($US)

$57,692,705

$217,790,446

$238,218,890

China

2001

2002

2003

Volume (units)

56,295

1,291,820

1,759,684

Value($US)

$23,907,845

$240,660,443

$238,218,890

(Source: ITC Dataweb)

\* Import data reported under HTS 8528.12.2800 have been reduced by 92.8 percent (2001), 91.4 percent (2002), and 92 percent (2003) to exclude non-subject merchandise (CTV combo units under 21 inches diagonal).

### ITC votes to continue cases on magnesium from China and Russia

The United States International Trade Commission (ITC) today determined that there is a reasonable indication that a U.S. industry is materially injured by reason of imports of pure magnesium from Russia and alloy magnesium from China and Russia that are allegedly sold in the United States at less than fair value.

Chairman Deanna Tanner Okun, Vice Chairman Jennifer A. Hillman, and Commissioners Marcia E. Miller, Stephen Koplan, and Daniel R. Pearson found two like products in these investigations. They voted in the affirmative with respect to pure magnesium from Russia and alloy magnesium from China and Russia. Commissioner Charlotte R. Lane found one like product and voted in the affirmative. As a result of the Commission's affirmative determinations, the U.S. Department of Commerce will continue to conduct its anti-dumping investigations of imports of magnesium from China and Russia, with its preliminary anti-dumping determinations due on or about August 5, 2004.

The Commission's public report Magnesium from China and Russia (Investigation Nos. 731-TA-1071-1072 (Preliminary), USITC Publication 3685, April 2004) will contain the views of the Commission and information developed during the investigations. Copies of the report are expected to be available after May 10, 2004, by calling 202-205-1809 or from the Office of the Secretary, 500 E Street SW, Washington, DC 20436. Requests may also be faxed to 202-205-2104.

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