

SUPPORTING DOCUMENT PARTICULAR MARKET SITUATION ("PMS")

This document serves as a supporting Appendix to the section on the particular market situation in the application and compiles the most relevant extracts from key sources for the TRA’s use. It is not intended to provide an exhaustive account of all relevant information, but rather to facilitate the Authority’s review.

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Final Determination Excavators case

G2.1.1 State Influence Over the Economy

- JCB:
 - §188. As the sole governing party in the PRC, the CCP (Chinese Communist Party) assumes an all-encompassing leadership role within the country. This includes the ability to exercise control over the PRC's economy via both state owned enterprises (SOEs) and private enterprises. For example, Article 19 of the 2018 revision of the Companies Law of the PRC states that not only must PRC companies “establish CCP branches in companies to carry out activities of the Chinese Communist Party” when required, but that they must “provide necessary conditions to facilitate the activities of the Party.” The impact of this can be seen in the fact that in 2021 over 92% of the top 500 companies in the PRC hosted government party cells, with the expectation that this number will rise to 100% given a change in governance requirements in 2018.
- TRA:
 - §201. On balance, the TRA has determined that there is evidence that government influence is present within both SOEs and private organisations, including the sampled exporters. The TRA has found evidence that government influence causes the price of excavators to reflect non-commercial factors. This is evidenced above through; article 19 of the Companies Law of the People's Republic of China, the 14th Five-Year Plan for Economic and Social Development (2021-2025), and the Made in China 2025 strategy.
 - §205. [...]. For instance, PRC labour laws and finance regulations provide the framework through which the PRC is able to influence its internal market. The fact that they are general (in the sense they will impact multiple – if not all – industries and sectors) does not diminish this role.
 - §210. In response, the TRA submit that it has provided examples throughout the SEF, in particular Sections F2.1.1 to F2.1.11, of factors which result in prices that reflect non-commercial factors. These include the 14th Five Year Plan which ostensibly aims to provide general guidance on the development of a wide range of economic policies in 2021-2025; the Made in China 2025 industrial strategy which aims to reduce PRC reliance on imported technology by improving its industrial capacity; evidence of GOC involvement in the steel industry; state influence in the excavator parts market and specific interventions in the hydraulics industry in the PRC.

- §211. The TRA has concluded that these factors result in prices which reflect noncommercial factors. The TRA has then considered the impact of such factors on the costs of production, as explained in Section F2.2.2 of the SEF, and where they have a material impact on the costs of production, the TRA has made adjustments in accordance with regulation 13 of the Regulations.

G2.1.2 Cost of raw materials - Steel

- JCB

- §219. The PRC is the world's [largest steel producer](#). Distortions in the Chinese steel market are well known, leading to [significant overcapacity](#). The steel industry in the PRC is heavily subsidised, though the true extent of these subsidies can be difficult to determine as many of the subsidies may be [received at local government level](#). Despite PRC reform pledges, a [report](#) published in 2024 found that the steel industry in the PRC is still subject to government intervention which results in market distortion.
- §220. As JCB point out in its allegation, steel forms a key [part of the 14th FYP](#). The plan contains explicit commitments to “transform and upgrade traditional industries, promote the optimization and structural adjustment of raw material industries such as [...] steel”. Similar statements can be found in the [14th Five-Year Plan for Development of Raw Materials Industries](#) such as an intention to “[e]ncourage regions with conditions to promote the coupled development of industries such as [...] steel, establish industrial coupled development parks for raw materials, and realize the cascade utilization of energy resources.” As established above, although such programs are generally phrased in terms of aims and ambitions for the GoC rather than explicit actions, they form the basis for government support in the PRC.
- §221. JCB also alleged that the steel industry in the PRC, and the industries providing steel inputs, [is dominated by SOEs](#). Although SOEs are not always indicative of market distortions, in the PRC SOEs are used as “vehicles to pursue the government’s economic policies” and thus [likely to attract state support](#). There is also [evidence](#) that the level of subsidisation from the GoC has been on the rise in recent years, with subsidies coming in numerous forms ranging from currency policies to cash grants. A recent [study](#) found that “preferential treatment [subsidies] of these specific SOEs [in the PRC’s steel industry] induced them to engage in price cutting behaviour, harming competitiveness in the market”.
- §227. JCB states that all key material inputs to excavators are distorted in the PRC, including pre-fabricated excavator components. It has listed some of these inputs to the like goods such as hydraulics, the cab, the

undercarriage, the engine, the tracks, the counterweight, the boom, the dipper, and fasteners. These parts are either produced by the excavator manufacturers or purchased.

- TRA
 - §223. The TRA has also found evidence that the GoC puts measures in place or removes measures to control steel production, for example, [adjusting export tariffs](#) for steel inputs such as pig iron and the adjustment of VAT rebates for exports of certain steel products. Where these changes make exporting steel less attractive to steel producers, they serve to lower the prices paid by domestic industries, such as the excavator industry. Overall, these changes demonstrate the high level of control the GoC has over the steel industry and the [significant steel overcapacity](#) which has resulted from this.

G2.1.3 Cost of raw materials – Other key inputs

- JCB
 - §230. A drive towards consolidation has also meant that many PRC steel companies have [consolidated with and acquired](#) companies that manufacture steel machinery components directly, meaning that the state support available to steel producers is effectively directly available to these companies. As a result, the impact of Chinese steel industry “[ripple\[s\] throughout critical and strategic global markets](#) and make[s] it difficult if not impossible for market-based producers to compete,” including in “high-end markets like the automotive, energy, machinery and equipment, and bearings sectors.”
 - §231. There is further evidence of direct state interference in the excavator parts market. For instance, the [Catalogue of Industrial Base Innovation and Development \(2021\)](#) lists excavator parts in its list of products needed for “upgrading the industrial base and modernizing the industrial chain, and to implement the task requirements of the Party Central Committee and the State Council.” The [14th Five-Year Development Plan for the Construction Machinery Industry](#) cited earlier also refers to the need to develop “high-end [construction machinery] parts” and of the requirement to implement the “construction machinery industry chain strong foundation development project”. It also lists over 119 kinds of products, parts, and technologies from the construction machinery industry which should be encouraged.
 - §232. The degree of state involvement in these firms is extensive. [...]

- §233.JCB has also provided evidence of specific intervention in the hydraulics industry in the PRC. It cites the [Made in China 2025](#) policy document which outlines the GoC's intention to "[a]ccelerate the development of smart manufacturing equipment and products" including "the research and development of high-end CNC machines [and] industrial robots" which utilise hydraulics extensively. That such 'guidelines' have resulted in state support by the GoC is confirmed by several PRC hydraulic producers. For example, Lijin Pneumatic Hydraulic Factory [states](#) that "with the support of government policies, the hydraulic support industry has been vigorously developed, and the quality of various support products has also been guaranteed."
- §234. While a [2020 report](#) states there is evidence that the PRC was at least partially dependent on imports for the most high-end hydraulic components at the time, the industry in the PRC had been growing rapidly. The report suggests that this growth was at least partially due to the GoC bolstering the construction industry following the global financial crisis. The result of this was that "domestic companies [had] overcapacity in medium and low-end products and [which created] severe homogeneity competition." Such state driven overcapacity puts an artificial downwards pressure on prices, distorting the cost of these inputs for excavators. There is little evidence of the GoC attempting to mitigate this effect, and the continuing state support and emergence of several high-end domestic hydraulic component companies in the PRC, suggests that this issue is continuing.
- §235. While a [2020 report](#) states there is evidence that the PRC was at least partially dependent on imports for the most high-end hydraulic components at the time, the industry in the PRC had been growing rapidly. The report suggests that this growth was at least partially due to the GoC bolstering the construction industry following the global financial crisis. The result of this was that "domestic companies [had] overcapacity in medium and low-end products and [which created] severe homogeneity competition." Such state driven overcapacity puts an artificial downwards pressure on prices, distorting the cost of these inputs for excavators.
- TRA
 - §241. [...] the TRA considers that the high proportion of steel in most excavator parts means that the prices of those parts reflect non-commercial factors in the steel market. Information provided by a sampled exporter showed that for the six major components of excavators, all but the counterweight contained more than 50% steel, with some components being 100% steel. Furthermore, paragraphs 172 and 173 of the SEF indicate that the hydraulics industry receives direct state support.

- §242. The TRA submits that the presence of SOEs is also likely to result in prices which reflect non-commercial factors.

G2.1.4 Energy

- JCB:
 - §245. The TRA concluded in previous investigations, [AD0012 Aluminium Extrusions](#) and [AD0021 Optical Fibre Cables](#) that a PMS exists in the energy market in the PRC at a national and local level, causing prices to be artificially low. In particular, the TRA pointed to the [Trade Policy Review of the PRC](#) (published September 2021 by the World Trade Organization (WTO)) which found that electricity transmission and distribution were subject to GoC price controls
 - §246. Such intervention is enshrined in the law of the PRC. For instance, the [Price Law](#) exists in order “to standardize pricing [and] give play to the role of pricing in rationally allocating resources,” including giving the GoC the power to “guide or fix the prices” for important public utilities like power. [...] , [a notice from 2021](#) demonstrates GoC intervention in this sector is in fact occurring.
- TRA
 - §249. The TRA notes that the implication of this is that 20 percent of electricity prices are therefore not set by the market, which indicates the presence of non-commercial factors in the electricity sector

G2.1.5 Labour

- JCB:
 - §253. Article 290 of the [Criminal Law](#) of the People’s Republic of China states that any gathering that disturbs public order by preventing “work in general, production, business operation, teaching or scientific research,” the exact purpose of strike action, is punishable by no less than three years imprisonment for the leaders, and no more than three years for participants. There are [reports](#) of workers being detained and charged for being involved in labour disputes. Such limitations cause the price of labour to reflect non- commercial factors by undermining or otherwise exerting influence over the collective bargaining process.
 - §254. JCB has also suggested that the workforce in the PRC is negatively impacted by the *hukou* household registration system by creating a pool of labour with artificially low wages. The [hukou registration system](#) divides the population of the PRC into agricultural and non-agricultural citizens, restricting where people are able to live and work. [...] [Reports](#) from 2013-

2015 suggest that the pay differential between agricultural and non-agricultural hukou registrations for public and non-public workers is between 5-13%.

- TRA:
 - §250. the TRA has previously determined in [AD0021 Optical Fibre Cables](#) that there was evidence that the labour market reflects non-commercial factors.
 - §252. [Article 33 of the CCP constitution](#) states that unions within non-public sector entities shall be controlled by CCP organisations in order to implement government policy. The constitution itself states that labour unions are to be overseen by CCP organisations and so would not be independent. There is also no longer an official recognition of the right to strike, which was removed in 1982, according to the [ITUC Global Rights Index](#), which removes a key element of workers collective bargaining power on wages.
 - §253. [...] the fact that market-based reforms are needed at all implies that the market is not yet driven by market forces
 - §264. The TRA's findings in the current investigation reflect the findings in other, more recent, investigations such as [AD0021 Optical Fibre Cables](#) and [TD0035 Bus and Lorry Tyres](#).

G2.1.6 Shipping and Logistics

- JCB:
 - §266. The products and services subject to price controls are listed in a [Central Government Pricing Catalogue](#). The list includes “port services” which covers the pricing of “services such as ship entry and exit, berthing and port security”.
- TRA:
 - §267. The TRA has identified [reports](#) that stated shipping companies from the PRC are in receipt of substantial subsidies from the GoC. The available information indicates that state support for the shipping industry in the PRC is [multi- faceted](#). [Examples of the benefits](#) provided by the GoC to the shipping industry include, “financing from state banks, direct subsidies, indirect subsidies, state-backed fundraising, preferential borrowing rates, and other nonmarket advantages from the PRC’s state capitalist system”.

G2.1.7 Research and development

- JCB:
 - §273. The [2022 annual report](#) for Sany Heavy Equipment International Holdings Company Limited confirmed that parts of the Sany Group receive, “certain [PRC] government incentives relating to the development of our products”. These incentives are described as being,

“preferential treatment, incentives and favourable support”. This report also refers to “super-deduction of research and development costs” with regards to income tax and mentions that “government grants have been received for the purchase of certain items of property, plant and equipment or finance of research and development projects”.

- TRA:
 - §274. The TRA was able to identify evidence from open- source research to confirm this is the case, with the Sany Group and Liugong Group opening global R&D centres in [2015](#) and [2022](#) respectively.
 - §277. The information provided by the sampled PRC exporters relating to R&D subsidies supports JCB's allegation that the R&D costs of those exporters reflect non-commercial factors as a result of GoC funding. This information indicates a high level of GoC influence in the R&D sector. This influence is not restricted to the excavator industry but is representative of GoC involvement across multiple industries.

G2.1.8 Land

- JCB:
 - §279: JCB has alleged that all land is owned by the GoC, that land use rights are set by authorities, and that land is allocated at either artificially low prices or free to certain favoured industries.
- TRA:
 - §280. In relation to the cost of land or rent, the TRA has previously determined in [AD0021 Optical Fibre Cables](#) that the land market in the PRC reflects non-commercial factors. This was due to land not being owned by a private citizen or company within the PRC, and instead land being leased by local authorities to the users of that land for a fixed term. There is evidence that this practice is not an open process and leads to land prices and rent rates that are artificially low and/or reflect non-commercial factors. Despite this, in AD0021, the TRA concluded that the cooperating overseas exporter's land costs did not appear to be artificially low in comparison to the selected benchmark.
 - §281. Article 10 of the [Constitution of the PRC](#) states that land in cities is owned by the state. [...]
 - §282. Research published in August 2023 in the [Cities journal](#) provides evidence that land may be allocated to certain industries based on government policies.
 - §284. The TRA considers that Article 10 reasonably indicates land is not bought and sold at prices determined by free market supply and demand. This conclusion is supported by research conducted by [CEPR](#) and the [Becker Friedman Institute for Economics](#), the latter noting ‘land zoned for residential use selling at roughly a ten-fold higher price than land zoned as industrial’.

G2.1.10 Finance

- JCB:
 - §278. JCB has alleged that excavator producers in the PRC benefit from a number of advantageous loan and credit lines.
- TRA:
 - §288. The PRC's [General Rules on Loans 1996](#) gives local authorities the legal right to support preferential loans for preferred industries. Article 15 states that “[i]n accordance with the State’s policy, relevant departments may subsidise interests on loans, with a view to promoting the growth of certain industries and economic development in some areas.” Similarly, article 12(5) of the PRC’s [Regulations on the Administration of Corporate Bonds \(January 2011\)](#), states that all funds raised must be “in line with the national industrial policy,” indicating that they are not issued according to market demand.
 - §289. In the PRC, the banking system is [largely controlled by the government](#) with [preferential treatment given to SOEs](#). Even where a bank is not wholly state owned, it is typically a joint-stock enterprise where the government holds a significant number of shares, as shown in [the list of China’s systemically important banks 2022](#) or the [reference to the four biggest Chinese banks](#). The [result](#) of this is that under “the controlled economy, state-owned banks tended to see lending to state-owned enterprises as a mechanism for distributing fiscal funds.” It is therefore likely that the Liugong Group, as an SOE, benefits from preferential financial arrangements such as fiscal and credit support.
 - §290. The credit rating system in the PRC is distorted, offering far higher credit ratings than would be found elsewhere. For instance, at the end of 2020, [98.49% of Chinese bonds were rated as AA or higher](#) compared to only 6% in the US. This allows PRC based companies to receive better rates than they would otherwise on international financial markets. One reason for this much higher average rating may be the relatively high number of credit rating agencies. As pointed out in the [Commission Working Document](#), this allows borrowers “to choose whichever rating agency can give them a higher rating.” The Sany Group is part of a group consisting of a commercial bank, [Sanxiang Bank](#), which also increases the likelihood that the Sany Group has access to preferential financial arrangements on this basis.

G2.1.11 Tax

- JCB:
 - §292. JCB alleges that excavator producers in the PRC receive central tax breaks as well as tax breaks in relation to R&D and land use. In

relation to reducing manufacturing costs and burdens, [14th FYP](#) states that the GoC will, “consolidate and expand the achievements of tax reduction and fee reduction.” JCB argues this artificially reduces tax and regulatory costs for excavator producers in the PRC.

- TRA:
 - §293. The TRA has identified that the PRC has a range of tax incentives in place for the [manufacturing industry](#):
 - The standard rate for corporate tax in the [PRC is 25%](#) though this rate may be [reduced to 15%](#) for enterprises ‘encouraged’ by the GoC. Such enterprises are classed as [High and New Technology Enterprises \(HNTE\)](#).
 - Evidence of [incentives in relation to R&D](#) in the PRC is available from [open-sources](#). [KPMG](#) detailed in May 2021 ‘super deduction rules’ with regards to R&D expenses and the [OECD](#) has subsequently reported on two incentives related to R&D (namely, tax allowance and accelerated depreciation for R&D capital assets).
 - Certain enterprises are [exempt from paying urban land use tax](#) in the PRC, for example, certain heating companies and drinking water projects.
 - Certain industries, including the manufacturing industry, are eligible for [VAT rebates in the PRC](#). The standard rate for value-added tax (VAT) in the [PRC is 17%](#) though this rate may be reduced to 13% for ‘certain necessities’

G2.1.4 Conclusion on existence of a PMS

- TRA:
 - §307. Based on the evidence provided by JCB, findings in previous TRA investigations, and case specific research, the TRA has concluded that a PMS exists in the PRC for the industry of the like goods in the exporting market on the basis that the market reflects non-commercial factors.
 - §308. JCB has provided evidence of significant direct interference by the GoC which is reflected in the price of steel and key excavator components. There is clear evidence that the GoC supports many of the industries that supply the inputs for the manufacture of excavators in accordance with their national industrial strategy rather than on the basis of market principles, resulting in prices of these inputs reflecting non-commercial factors.
 - §309. The evidence provided in JCB’s submission also demonstrates the prices of finance, land, energy, R&D, and labour reflect non-commercial factors, due to government intervention and policies.

[...]

The commission staff working document: on significant distortions in the economy of the people's republic of China for the purposes of trade defence investigations (SWD (2024), 10.04.2024)

PART I CROSS-CUTTING DISTORTIONS

2. SOCIALIST MARKET ECONOMY

[...]

2.4. CHAPTER SUMMARY¹

The preamble of the Constitution, further provisions in the Constitution, the CCP Constitution, as well as various other legal acts and documents refer to the term 'socialist market economy', invoking it as the basic framework of China's socio-economic set-up. As apparent from the relevant legislative and policy documents, this unique economic system grants the State, as well as the CCP, a decisive role in the economy. While the Constitution recognises that diverse forms of ownership develop side by side, and while the Chinese economy consists to a large extent of 30

non-state actors, the Party and the State retain a leading role in the economy of the country, going well beyond macroeconomic control. The leadership role of the CCP and its all-encompassing controls are in fact inherent in China's official designation as a socialist market economy.²

In practice, the socialist market economy system has meant that while market forces have been mobilised to some degree, the decisive role of the State remains intact, with tight interconnections between government and enterprises. The basic features of the socialist market economy are dominant state-ownership, an extensive and sophisticated economic planning system, as well as interventionist industrial policies and a broad array of other tools to pursue political and economic objectives set by the Party and/or the Government. This system does not prioritise and often does not result in market-based resource allocations. Indeed, the concept of socialist market economy

¹ P. 29.

² Houtari, M., Heep, S., Heilmann, S. (2017). *The dynamics of a developmental state*, in Heilmann, S. (Ed.) (2017), *China's Political System*. Lanham, Maryland: Rowman & Littlefield, p. 239.

prioritises other objectives - such as ‘*socialist modernization*’. “*Giving play to decisive role of market forces*”, a phrase often found in Chinese policy documents, remains only an incidental means for achieving those objectives, with the market forces tolerated where suitable rather than being considered the main organising principle of the national economy.

3. CHINESE COMMUNIST PARTY

[...]

3.4. CHAPTER SUMMARY³

The CCP is the only governing party in China with its leadership role assigned by the Constitution. This leadership role covers all aspects of the State (such as armed forces or education) including – importantly for the purposes of this Report – the government apparatus (see Section 3.2.2) and personnel (see Section 3.2.3). The recent years have seen a growing integration between the State and the Party, making the structures of the Party and those of the State functionally indistinguishable. This integration entailed not only government reforms geared towards boosting the CCP’s control over the State administration (see Section 3.2.2), but also an increasing tendency of the Party to inject itself directly into the corporate structures and the managerial decision-making of individual business operators, state-owned (see Section 3.3.1) and private (see Section 3.3.2) alike. Consequently, the CCP is in position to control the country’s economy both by using the State institutions, as well as through other – more direct and informal – channels, in particular Party structures within enterprises.

Consequently, the CCP sets the economic agenda and controls all aspects of its implementation far beyond macroeconomic control or other common regulatory interventions, such as consumer or environmental protection. In fact, the CCP is in position to extend its control to the level of business decisions of individual enterprises and is willing to do so whenever deemed appropriate (see Section 3.3 and Section 2.3). Given the primacy of politics over economy in present day China, anything can become subject to regulation, depending on the Party’s political agenda and economic or industrial policy priorities (see Section 3.3.4).

4. PLANNING SYSTEM

[...]

4.4. CHAPTER SUMMARY⁴

³ P. 55.

⁴ P. 99.

China's multi-layered planning system is an important tool for China's leadership to shape the economic and social development of the country. This holds true despite the fact that their complex structure is sometimes combined with wording open to interpretation (see Section 4.2.1). Far from merely constituting a platform for possible government interventions into the economy, the planning system is more systemic, as the initially broader policy orientations of the higher-level plans (see in particular Section 4.2.2) are gradually fleshed out (see Sections 4.2.2, 4.2.6, 4.2.7, 4.2.8) to the point of translating broader policy goals into specific targets or individual projects receiving government support (see Sections 4.2.6 and 4.2.7). In the 14th planning period, an increasing number of these targets are enshrined in lower level FYPs and ad hoc policy documents (see Section 4.2.1). The set of interventionist tools which the plans envisage to be employed by government bodies ranges from quantitative and qualitative development targets, production targets, capacity control, to financial support, to security of supply or to interventions into the corporate structure of businesses (see Section 4.2) and is mirrored by the pledge to encourage and support the sectors/areas/companies which the plans designate as priorities (see in particular Section 4.2.9).

Plans are more than just strategic visions. Numerous provisions in laws and in the plans themselves attest to their binding nature. They determine the direction of the Chinese economy, set out priorities and prescribe the goals which all levels of government and emanations of the State must focus on and strive to implement. The objectives set by the plans are of a binding nature (see Section 4.3.1) and the higher level authorities regularly control and monitor the progress of their implementation (see Section 4.3.2).

Overall, the structure of the existing planning system, as well as substance of the set of 14th FYPs at the respective levels of administration, suggests that even though the planning documents maintain the stated objective of allowing the markets to play a decisive role in resource allocation (see Sections 4.2), the Chinese leadership continues to rely on a planning mechanism to strongly encourage the direction of resources towards sectors deemed to be strategic or otherwise important, thereby setting the conditions of competition based on public policy objectives and maintaining a decisive impact on the economy.

5. STATE OWNED ENTERPRISES

[...]

5.6 CHAPTER SUMMARY⁵

In China, SOEs represent an important and comparatively large portion of the national economy (see Section 5.2). They will continue to do so for the foreseeable future.

⁵ P. 130.

According to the relevant laws and policy documents, the state-owned economy is explicitly considered as a pillar of the Chinese socialist market economy. The IMF estimated in 2021 that Chinese SOEs accounted for some 39% of total industrial corporate assets and for about the same portion of corporate debt (see Section 5.2). These figures were likely underestimated, not least because they did not include JVs that SOEs held together with private companies. SOEs are increasing their presence in the service economy, and it remains constantly high in utilities, the finance sector, telecommunication, the transport industry and a broad range of manufacturing industries including steel and chemicals.

The existing legal framework is based on the principles of the socialist market economy in which the development and the consolidation of the state-owned economy feature among the central principles. The particular role of SOEs (*‘the leading force in the national economy’*) is anchored in the Constitution and the relevant constitutional principles are reiterated and elaborated in both primary and secondary legislation. It falls upon the State to ensure the consolidation and growth of the state-owned economy (see Section 5.5). Consequently, the applicable laws confer upon the government significant powers which allow it to effectively control SOEs, be it via dedicated supervision bodies – SASAC and local SASACs, or by directly participating in the operational decision-making of SOEs (see Section 5.5.2). In addition, the relevant legal framework also provides for an important role of the CCP (see Section 5.3).

Against this background, the Chinese government and Party have not shied away from exercising the powers available. In particular, the authorities have engaged in shaping the structure of the state-owned sector by policies of consolidation through mergers (see Section 5.5.1) which can pursue various purposes, such as to avoid the closure of facilities contributing to excess capacity by putting ailing companies under the wings of a stronger partner or to create national and even international champions. Chinese authorities have further continued controlling the behaviour of SOEs by means of nominating and dismissing its management, as well as by making the Party involved in SOEs’ decision-making (see Section 5.5.2). Moreover, the Chinese government has developed a number of novel instruments and policies which extend the reach of the state sector – and therefore of the state authorities – into the privately owned enterprises and serve the long-term goals of achieving technological independence and 131

strategic dominance (see Section 3.3.2 and Chapter 2). In any event, while the motivations of specific instances of supervision and guidance over SOEs may vary, the overall developments in China confirm that the goals of market-oriented reforms, which may have been present in the State authorities’ considerations still around 2013 (see Section 5.3), gave way to the Government’s determination to further develop the dominant role of the state-owned economy, in particular by selectively creating large SOEs, shielded from competition domestically and expanding internationally. Such SOEs

are meant to serve the Government's strategic industrial policies rather than focus on their own economic performance (see Section 5.5). In other words, the management of SOEs does not appear to be conducted on an arm's length basis, contrary to normal practice in modern market-based economies.

Such an overall institutional setup and legal environment are conducive to business practices which have been amply documented with relation to Chinese SOEs, such as preferential access to finances (see Chapter 6), protection by market access restrictions (see Chapter 8), preferential access to land (see Chapter 9), energy (see Chapter 10), etc., and which result in distorting the effective allocation of resources.

6. FINANCIAL SYSTEM

[...]

5.6. CHAPTER SUMMARY⁶

Despite changes throughout the past decades, the current Chinese financial system is still characterized by two features: (1) a strong presence of state-owned banks and (2) a widespread influence of the State which imposes on the financial system a number of policy objectives, in particular the implementation of the sophisticated economic planning system. Moreover, the recent/ongoing changes in the organisational set-up of the regulatory bodies confirm and reinforce the subordination of these bodies to the CCP (see Section 6.2.2).

The Chinese financial system remains centred around banking, with RMB-denominated bank loans accounting for the largest portion of aggregate financing to the real economy in the country (see Section 6.3.1). The most important categories of banks in China are the following: large state-owned commercial banks, joint-stock commercial banks and policy banks. The rest is mainly accounted for by smaller rural or city commercial banks which are mostly owned by local or provincial governments. Foreign-invested banks remain negligible in China's banking sector (see Section 6.3.1.4). The State dominance over the banking sector and the legal framework which encourages lending in line with industrial policies, perpetuates the existence of significant shadow banking sector, given that certain categories of economic operators may face difficulties to raise capital in the current system (see Section 6.3.1.5).

The State controls the banks through various channels, in particular through direct and indirect ownership which in turn facilitates its control over the management bodies of the banking institutions (see Section 6.3.2.1). Moreover, irrespective of the degree of State ownership, all important banks host internal CCP organisations. As apparent from

⁶ P. 130.

relevant legislation, as well as from the AoA of major banks, significant personnel overlaps between the management of the banks and the Party organisations are in place (and indeed required) and the CCP organisations have to be involved in major operational and management issues of the respective banks (see Section 6.3.2.2).

The legal framework spells out that banks are to implement China's economic policy. Article 1 of the Banking Law stipulates, inter alia, that banks promote the development of the socialist market economy and Article 34 states that "[c]ommercial banks shall conduct their business in accordance with the needs of the national economic and social development and under the guidance of the industrial policies of the State". Provisions to a similar effect can be found in other pieces of applicable legislation, such as the Decision No. 40 or the CBIRC's Notice on the Commercial banks' performance evaluation method (see Section 6.3.3.).

The bond and stock markets in China are of lower importance compared to the banking sector. However, they too are tightly regulated to ultimately serve as tools for channelling capital to priority projects in line with the State's economic priorities (see Section 6.4.1). The Chinese bond market, other than being characterized by a high proportion of government bonds and by a strong presence of banks, also continues to feature irregularities related to credit risk assessment which in turn contribute to inappropriate functioning of the market and, therefore, to its imbalances (see Section 6.4.2). Similarly, the economic fundamentals and regulatory setup of the Chinese stock markets are not conducive to effective allocation of resources in the economy (see Section 6.4.3).

A relatively new financial tool are the GGFs, the purpose of which is to raise money from public and private sources and to make investments consistent with government priorities (see Section 6.5). Even if their actual track record in achieving the official goals may be mixed at the time of writing of this Report, their very size relative to the size of the market makes GGFs a distortive tool in their very nature, in any event strengthening the government control over resource allocation (see Section 6.5.3).

As to the export credit insurance market, Sinosure, as the main operator on the market remains fully State-controlled both in terms of ownership as well as stated purpose. Consequently, Sinosure appears to be mainly fulfilling the State's policies with limited regard to commercial considerations when providing insurance. In combination with China not being bound by the OECD-based rules, this results in export credit insurance typically being offered on inappropriately favourable terms to Chinese companies (see Section 6.6).

Last but not least, the number of bankruptcy cases, which is very low for an economy of China's size, points to serious issues with the enforcement of bankruptcy laws, stemming from a number of flaws in these laws, as well as from their inadequate implementation. In particular, the State plays an unduly active role in the bankruptcy proceedings, not least in view of the lack of Chinese judiciary system's independence, as well as given the

government authorities' involvement in individual bankruptcy cases, often influencing their outcome. Consequently, the Chinese bankruptcy system continues to operate inadequately, with the slow progress on addressing core issues – such the removal of the implicit guarantees and tightening SOEs budget constraints – being reported (see Section 6.7 and 6.4.2.2).

Overall, the functioning of the entire financial system is characterized by high State presence on both borrowing and lending side, as well as by the absence of normal market mechanisms such as effective and transparent bankruptcy and market exit procedures.

7. PUBLIC PROCUREMENT IN CHINA

7.4 CHAPTER SUMMARY⁷

[...]

The total value of the public procurement market in China, consisting of tenders issued by Chinese central and local governments regulated under GPL, is estimated to represent 3.3% of China's GDP. When including sales to SOEs, the value of the central government procurement market was estimated to be USD 2.15 trillion from 2019 to June 2020 (see Section 7.2). Public procurement is subject to two main pieces of legislation, the GPL and the TBL and their respective implementing regulations. The GPL, effective since 2003, applies to government procurement for goods, construction and services conducted with fiscal funds at all administrative levels above certain thresholds. The GPL does not apply to SOEs. The TBL, effective since 2000, governs procurement activities of both fiscal and private entities (including SOE's) relating to large infrastructure and public utility projects. These projects can be financed totally or, in part, by the government, state financing, loans and aid funds from international organisations or foreign governments. Draft revisions to both the GPL and the TBL have been released for public comments in 2019 and 2022 respectively but, as of writing of this report, have yet to be finalized (see Section 7.1.2).

In some respects, allocation of contracts under existing rules is not always transparent, done in a competitive way or based on market rules. Preferential treatment of domestic over foreign enterprises is enshrined in the GPL where the '*Buy Chinese*' provisions are explicitly set out. Ensuing distortions, as a result of limiting the competitive field, can manifest themselves through higher award prices or a limited range of goods and services on offer. These restrictive practices can be further compounded by discrimination in favour of 'national champions' as expressed in a 2008 MOFCOM notice regarding the protection and promotion of famous brands. While the TBL does not explicitly require '*Buy Chinese*', certain practices including licencing requirements, preferences for holders of indigenous patents as well as exclusions of consortia, in fact skew the process in favour

⁷ P. 204.

of Chinese enterprises. Such practices are prevalent in sectors including energy, construction and engineering.

The pursuit of secondary policy goals through the public procurement process further undermines market-based principles in the area. The legislation specifically provides that public procurement shall be conducted in order to facilitate the achievement of goals designed by state policies (see Section 7.3). Given the undefined nature of these goals, there is broad scope for interpretation by the decision-making bodies in justifying the allocation of contracts, thus overriding market driven decisions.

Ambiguities regarding the definition of domestic goods, services and construction works and domestic enterprises (e.g. whether they include FIEs), a lack of clear or effective remedial systems for challenges and complaints, overlaps and opaque provisions existing in both sets of relevant governing legislation all serve as further deterrents to foreign suppliers bidding for public procurement contracts in China (see Section 7.3).

Given the value of procurement contracts in China, the absence of clear competitive market-based rules has a significant distortive effect.

8. INVESTMENT RESTRICTIONS FOR CHINESE AND FOREIGN COMPANIES

[...]

8.4. CHAPTER SUMMARY ⁸

Over the past four decades, China has liberalised market access for both domestic and foreign investment. However, the State still maintains significant control and influence over private investment through industrial policies, laws, regulations and approval processes for investment.

Chinese authorities use investment regulation as an important tool for supporting industrial policy goals, such as maintaining state control over key sectors (including by enabling and protecting SOEs through incentives as well as restrictions on private investment), bolstering domestic industry (by fostering indigenous innovation, promoting domestic champion companies and conducting industrial restructuring when the status quo is out of date) and attracting, but keeping in check, foreign investment (to fill gaps in the domestic economy and cultivate domestic industry capabilities).

Industrial policy goals are expressed and implemented during the investment screening process through (i) laws, regulations and policy documents that describe broad policy directions, as well as often in great detail and specificity, the role that different economic actors and resources should play; and (ii) the structure of and substantive criteria applied through the approval processes used to manage private investment. The detail and

⁸ P. 243.

specificity of written policy prescriptions – as set out in detail in Section 8.3.1 on the investment approval process above – indicate that the Government continues to micromanage the country’s economy.

The formulation of legal, regulatory, and policy measures, and the day-to-day management of approval processes relating to foreign investment are handled by a range of government agencies, including NDRC, SAMR, MOFCOM and other industry regulators charged with granting various licences (together with the local counterparts of these government agencies).

Although the Government is implementing reforms affecting both domestic investment and foreign investment – including an effort to unify the country’s legal regime under the single, comprehensive FIL that codifies recent reform trends – these reforms do not reduce the role of the State in managing private investment. On the contrary, they appear to be used as a means to strengthen the hand of the state by making its influence over the economy more targeted and efficient.

PART II DISTORTIONS IN THE PRODUCTION FACTORS

9. LAND

9.1. INTRODUCTION⁹

According to the Constitution, there is no private land ownership in China. The land is divided into urban land belonging to the State and rural or suburban land belonging to the collectives.¹⁰ Whereas there is no private land property, individuals and organisations can hold land-use rights (*‘LUR’*) which allow their holders to dispose of the land to some extent. LUR of urban land provide for more freedoms with regard to the purpose of use and are more easily transferable, while the rural LUR come with a number of limitations including a prohibition of non-agricultural use without pre-approval. The LUR can be traded under certain conditions.

Even though a number of laws appear to set clear rules with regard to land used for commercial purposes, those laws are in practice often not fully implemented. For example, there are legal provisions on the minimum price for land use and auctions, which could, in theory, ensure market-based prices and fair access to land in China. However, as discussed below, the application and implementation of these laws is far

⁹ P. 245.

¹⁰ Article 10 of the Constitution reads: “*Land in the cities is owned by the State. Land in the rural and suburban areas is owned by collectives except for those portions which belong to the State as prescribed by law; house sites and privately farmed plots of cropland and hilly land are also owned by collectives. The State may, in the public interest and in accordance with law, expropriate or requisition land for its use and make compensation for the land expropriated or requisitioned. No organization or individual may appropriate, buy, sell or otherwise engage in the transfer of land by unlawful means. The right to the use of land may be transferred according to law. All organizations and individuals using land must ensure its rational use.*”

from being coherent: indeed, there is evidence that buyers (in particular SOEs) received their land for free or participated in tenders with only one participant, obtaining the land use rights at a very low price.

[...]

9.8 CHAPTER SUMMARY¹¹

The system of land property and LUR is still under development. Even though a comprehensive set of legislation governs the acquisition, transfer and pricing of LUR for commercial purposes, which in principle should ensure impartiality and equal opportunities for different economic players, those rules are often not implemented in practice, as systematically established in the Commission's TDI investigations: a number of buyers (in particular SOEs) received their land for free or participated in tenders with only one participant, obtaining the land use rights at a very low price. There are also significant discrepancies between different regions and individual cases. A number of distortions were established at the level of implementation: the rules on land provision and acquisition in China are often unclear and non-transparent, and the prices are often set by the authorities on the basis of non-market considerations, such as industrial policies.

However, the issues with land allocation in China go much beyond the insufficient enforcement of existing laws. An underlying reason is the fact that all land is owned by the State (collectively owned rural land and state-owned urban land), making the allocation of land dependent solely on the State, which may pursue specific political goals and put in place and maintain corresponding procedures to ensure that land is allocated in line with such political priorities rather than in line with free market principles.

10. ENERGY

[...]

10.4. CHAPTER SUMMARY¹²

China is currently the world's largest power producer. Around 50% of the power generation capacity is state-owned as well as the entire transmission grid. 18 SOEs controlled by the central SASAC are active in the energy sector.

The energy market has undergone several changes and reforms and as part of these reforms, with the aim to create competition in the energy market. Central price setting and planning was gradually limited, and the electricity prices were to some extent

¹¹ P. 260.

¹² P. 293.

marketised. However, despite those efforts, the energy prices in China are still not fully market based, but still controlled by the state to a high degree.

One of the most important issues is the way in which prices are differentiated for various industrial users. Price differentiation is a common practice, for instance there are usually different electricity tariffs for customers consuming large quantities, or energy used in off-peak periods is usually cheaper, or the residential and industrial consumers are subject to different rates. However, the price differentiation observed in China appears to favour certain encouraged industries (or even individual enterprises) and discourage others, and the report provides some examples at the provincial level.

The problem is aggravated by the policy of promoting direct power purchase. Participation in this scheme is linked to meeting certain eligibility criteria which pursue policy objectives. These criteria in themselves are already problematic because they provide cheap energy only to a subset of industries. The aim of energy saving, and environmental protection is misplaced in this context. Moreover, the available documents suggest that the purpose of the provision of cheap energy goes beyond promoting energy saving and the protection of the environment, but in some cases simply aims at reducing the electricity costs of certain sectors.

Many enterprises in the most energy-intensive industries operate their own captive coal-fired power plants, which are often constructed or operating in breach of the legal requirements. Local governments, by not implementing the strict rules pertaining to the construction and operation of the captive power plants, contribute to the fact that those enterprises benefit from distorted electricity prices.

Finally, it is noted that China provided in the past considerable subsidies to coal production, which in turn triggered the construction of coal-fired power plants to an extent leading to serious oversupply of electricity from this source.

Given the significant State presence and intervention into energy production, pricing and planning, the overall picture emerging is one where normal market considerations do not prevail on the Chinese market for energy.

11. CAPITAL

[...]

11.5 CHAPTER SUMMARY¹³

Access to capital for corporate actors in China is subject to various distortions given the strong State presence and regulatory controls governing the formal financial system. Firstly, the State plays an undue role in allocating capital. This results in a bias toward lending to SOEs and private businesses with close government ties, crowding out other

¹³ P. 315.

players in the market. The inefficient allocation of capital is particularly evident in the fact that there is a negative correlation between productivity and leverage, with less profitable SOEs bearing a disproportionate share of indebtedness. This has been exacerbated by China's economic response to COVID-19, which leaned heavily on SOEs through credit-fuelled investment. It is clear that the mechanisms at work in the banking system do not follow normal commercial responses (see Section 11.2.1).

Policy signals provided by the Government concerning strategic sectors also play a role. The Government seeks to direct investment into key projects and industries by, inter alia, offering loan interest subsidies, loan guarantees and other means of reducing capital costs. Moreover, banks and other lenders are encouraged to support these policies by providing loans to companies active in such sectors. This generates further lending bias, which fundamentally distorts China's financial markets (see Section 11.2.2).

Secondly, the cost of capital is not the result of free market forces. Although China has continued to liberalise its interest rate regime through the LPR, in September 2022 34% of loans were made below the benchmark (see Section 11.3). Further, China has made notable use of selective liquidity support. For example, the state subsidises loans to scientific and technological enterprises. Due to artificially low borrowing costs removed from the typical risk-return relationship, China has seen a continued credit boom characterised by overinvestment and excessive use of capital (see Section 11.4.1).

The rising incremental capital-to-output ratio and growth of credit intensity indicate a worsening efficiency of capital allocation. Non-performing loans are thus an increasing concern, as has recently played out in the real estate sector in particular (see Section 11.4.3). Nonetheless, China has in part masked the issue through evergreening loans and restructuring debt, including through M&A activity and debt-to-equity swaps, without fundamentally addressing the debt problem and its root causes (see Section 11.4.4).

In essence, despite the recent steps that have been taken to liberalise the market, the corporate credit system in China is affected by significant systemic distortions resulting from the continuing pervasive role of the state in the capital markets.

12. RAW MATERIALS AND OTHER MATERIAL INPUTS

[...]

12.10. CHAPTER SUMMARY¹⁴

China uses of a broad range of instruments allowing it to significantly influence the prices of raw materials. By artificially increasing or decreasing the level of raw materials supply,

¹⁴ P. 357.

or simply by centrally setting the prices, the government can steer the prices upwards or downwards.

The dense web of plans – including plans at the national, sectoral, provincial and municipal level – regulates basically every aspect of the Chinese economy and sets specific targets. In accordance with such plans, many key raw materials and other material inputs are to some extent regulated and are the targets of government intervention (see Section 12.2).

Other instruments applied in the plans which allow the Government to influence the supply level as well as the industry in general include, but are not limited to: increasing supply of raw materials by setting detailed minimum production targets, decreasing supply by setting maximum targets, prescriptions over overcapacity e.g. by blocking new investment projects, interventions of the State into the structure of enterprises (mergers and acquisitions to create large enterprises), central management of the geographic distribution of industries and transfers, and various extensive support measures (financial and other).

Secondly, the Government can influence prices by introducing different sorts of impediments to export. By limiting the quantities of raw materials exported abroad, the domestic supply is kept artificially high, leading to lower prices, constituting a benefit for the domestic producers of downstream products. Export restrictions are described in detail in Section 12.3.3.

Thirdly, the Government has the capacity to set prices of certain goods centrally. Even though the list of centrally set prices has to a great extent been reduced, the government is still intervening in cases where the prices run counter to government policies.

Stockpiling is another instrument allowing the State to significantly influence the domestic – and in some cases the global – raw material prices. Section 12.5 addresses the stockpiling of certain metals, including copper and nickel, as well as cotton and agricultural commodities, and the major impact those reserves have on domestic and global prices. However, detailed information on stockpiling is not made public.

Section 12.6 describes how the stockpiling and the interventions by the Government benefit the domestic producers due to the distortions of the Shanghai Futures Exchange benchmark prices.

Section 12.7 demonstrates that the industries relevant to the production of raw materials are to a large extent served by SOEs.

Finally, Section 12.9. shows that the State is guiding investments in the sectors examined. For some sectors there are investment restrictions, while for many sectors the government encourages investments. The State can back-up these restrictions and encouragements in a variety of ways, notably by granting (or refusing) financial support

and when reviewing the various permits. All this allows the government to artificially influence the supply of specific goods.

13. LABOUR

[...]

13.10. CHAPTER SUMMARY¹⁵

According to China's Trade Union Law, Chinese workers have no possibility to freely choose or establish a trade union in which they want to organise themselves, because there is only one legally recognized trade union, the ACFTU. Furthermore, although collective bargaining of wages exists, it is not well developed.

Among the eleven instruments (10 conventions and one protocol) that the International Labour Association itself classifies as fundamental, China has not yet ratified the following four instruments: Convention No. 87 (Freedom of Association and Protection of the Right to Organise Convention), Convention No 98 (Right to Organise and Collective Bargaining Convention), Convention No. 187 (Promotional Framework for Occupational Safety and Health Convention), and Protocol No. 29 (to the Forced Labour Convention). The two instruments on freedom of association (C87) and collective bargaining (C98) are of critical importance for the structure of the labour market in that they attribute rights to workers and employers and promote market-based wages (see Section 13.3).

The ACFTU has around 300 million members and is present in 6.5 million enterprises. However, the ACFTU is not independent, but rather is closely intertwined with the Party and the State. There is evidence that senior positions in ACFTU are occupied by senior party figures in SOEs or by managers in non-state enterprises. In other words, the union leaders appear to also be high level managers. This hampers their ability to represent workers' interests in full independence. All this can lead to situations where the management or, in the case of SOEs, the government negotiates with itself.

There is no official national level right to strike. In fact, this right was removed from the Constitution in 1982. In practice, strikes do happen in China and some local laws recognize some form of right to strike, but there are also a number of reports of labour activists being arrested, detained, imprisoned or made forcibly disappeared (see Section 13.6).

Collective bargaining exists and ACFTU engages therein. In the past, the results have often been considered as insufficient by workers, but more recently some improvement has been reported. There are now a number of written rules and policy documents (at the provincial level and below) promoting collective bargaining, and ACFTU is also stepping up its efforts. However, the relatively vague and underdeveloped legal and procedural

¹⁵ P. 380.

framework as well as the absence of a clearly recognized right to strike still constitute considerable hurdles to effective bargaining.

Furthermore, the Chinese workforce is impacted by the *hukou* household registration system (see Section 13.7). Only *hukou* holders have access to the full range of social protection and public welfare benefits. Originally, this system restricted migration between rural and urban areas, though this restriction has been considerably relaxed. In 2014, a single national resident registration system was introduced, but there are different rules for obtaining a *hukou*, depending on the size and the area of a city, with the largest cities having more restrictive rules. It seems to be virtually impossible for workers with the lowest qualifications (the least paid workforce) to obtain a residence permit in large cities. Migrant workers who do not possess a local *hukou* find themselves in a vulnerable employment position in their place of residence and receive lower income than the *hukou* holders, though this may be a reflection of lower skills. The considerable number of migrant workers without labour contracts also means that the actual labour force employed by Chinese companies can be difficult to reliably determine, with the ensuing uncertainty about the labour cost.

Last but not least, the issue of state-imposed forced labour has come to the fore in the last few years - notably with respect to XUAR - impacting or likely impacting labour as factor of production in various sectors (see Section 13.9).

PART III DISTORTIONS IN SELECTED SECTORS

14. STEEL SECTOR

[...]

14.8. CHAPTER SUMMARY¹⁶

The steel industry is regarded as a key/pillar industry by the government. This is confirmed in numerous plans, directives and other documents focused on steel, which are issued at national, regional and municipal level. The government guides the development of the sector in accordance with a broad range of policy tools and directives related, *inter alia*, to market composition and restructuring, raw materials, investment, capacity elimination, product range, relocation, upgrading etc. Through these and other means, the government directs and controls virtually every aspect in the development and functioning of the sector (see Section 14.1).

For the last several decades Chinese policies have been to support the rise of ‘*national champions*’ in the steel industry. To accomplish this, the Chinese authorities have employed an elaborate set of financial and other subsidies for the sector and engineered

¹⁶ P. 416.

strategic mergers that consolidated the industry players. In this respect, SOEs are a key instrument through which the government continues to develop the steel sector, not least by promoting the creation of ever-larger steel producers. This is achieved through policies intended to shape the structure of the market, e.g. through mergers and regulation of market access. In addition, Chinese financial institutions play a key role in implementing the government's policies in the steel sector. They provide access to finance following the government's direction and implementing the government's policy objectives (see Section 14.3).

These elements combined present a picture of a sector heavily influenced by the government. In this regard, numerous trade defence investigations in various jurisdictions have confirmed that Chinese steel producers benefit from a wide array of State support measures and other market distortive practices such as export restrictions affecting raw materials and inputs (see Sections 14.4 and 14.5).

The overarching control of the government prevents free market forces from prevailing in the steel sector in China. The problem of overcapacity is arguably the clearest illustration of the implications of the government's policies and the distortions resulting therefrom. Overcapacity built up by China over years triggered a surge of low-priced Chinese exports causing a depression of steel prices globally and having a negative impact on, *inter alia*, the financial situation of steel producers worldwide. While the government has committed to addressing the overcapacity problem, in particular through the 14th Raw Materials FYP and the Steel Industry Development GO, it remains to be seen whether this and other targets for the sector are successfully met, given in particular that (i) during the 14th planning cycle, the declared objectives for the steel sector appear contradictory as far as overcapacity reduction is concerned¹⁸⁸¹ and (ii) following China's departure from GFSEC, it became very difficult to get any accurate information related to the reduction of overcapacity in China (see Section 14.6).

15. ALUMINIUM SECTOR

[...]

15.7 CHAPTER SUMMARY¹⁷

China is the largest aluminium producer in the world. Its domestic market is served significantly by large SOEs, which account for a dominant share of Chinese aluminium production and production capacity. These SOEs are a primary vehicle for implementing government policies (see Section 15.4.1). There are numerous plans, directives and other documents pertaining to aluminium, issued at the national, regional and municipal level, clearly showing the high degree of intervention of the Chinese government in the aluminium sector. Through these and other instruments, the Government directs and

¹⁷ P. 456.

controls the development and functioning of the sector to a great extent (see Section 15.3).

Beyond the plans, the Government's intervention in the sector has taken the form, *inter alia*, of export-related measures, including VAT rebate policies and export taxes on aluminium products (e.g. primary aluminium and scrap). Moreover, key inputs such as energy and electricity are found to be influenced by different types of government intervention. Other types of government intervention leading to market distortions include the stockpiling policy through the NFSRA and the role of the SHFE (see Sections 15.5.4 and 15.5.5). In addition, several trade defence investigations have established that the Government has consistently granted different types of State support measures to aluminium producers (Section 15.6).

The extensive intervention of the government in the aluminium sector has also led to overcapacity (see Section 15.2.3). While the Chinese authorities have taken various formal measures aimed at curbing overcapacity, the issue of structural overcapacity has not been resolved as of writing of this Report.

16. CHEMICAL INDUSTRY SECTOR

16.1. INTRODUCTION

This chapter focuses on the Chinese chemical sector, covering a broad range of chemicals, falling into the general categories of basic chemicals (for example, inorganic chemicals, petrochemicals and fertilisers), speciality chemicals²⁰⁶²¹⁸ (for example, dyes, paints, pesticides, additives, electronic chemicals), polymers (for example, plastics, man-made fibres, synthetic rubber), consumer chemicals (for example, detergents, cosmetics, fragrances), as well as new chemical materials (for example, advanced composites). Expressed in terms of the Harmonised System ('HS') nomenclature,¹⁹²⁰⁶³ this chapter broadly covers Section VI of the HS, except pharmaceutical products but parts of Section V, in particular Chapter 27, certain parts of Section XI and others.

The Chapter will first provide a general overview of the Chinese chemical sector, including a summary of recent data on production, geographical distribution, main market players, etc. Subsequently, the Chapter will describe the relevant legal and administrative framework, in particular the planning documents for the chemical sector, at various levels

¹⁸ Another overlapping category referred to in various regulatory documents is Fine chemical, comprising products such as amino-acids, flavors and fragrances, vitamins, D-ethyl esters, hydroxymethoxyethylbenzene, biphenylnitrile, phthalate diallyl ester, butylsulfonyl chloride, p-toluenesulfonyl chloride, trimethyliodosilane, potassium iodide, potassium iodate, anti-corrosion coatings including nano marine anti-corrosion and graphene marine anti-corrosion coatings, dispersed polyacrylamide, dispersed polyacrylic acid copolymer, maleic acid copolymer, scale inhibition corrosion inhibitor, polycarboxylic acid scale inhibitor dispersant, quaternary ammonium salt sterilization and algae killing agents, other water treatment aids.

¹⁹ See at: <https://www.wcotradetools.org/en/harmonized-system> (accessed on 22 August 2023).

of government. Finally, the Chapter will further recount the distortions detected in the Chinese chemical sector by the Commission and the US authorities.

16.2. THE CHINESE CHEMICALS MARKET

16.2.1. CHINA'S GLOBAL POSITION

As of the writing of this Report, China ranks first among the countries producing chemicals. In 2020, China's sales of chemicals totalled EUR 1 547 billion, thereby representing 44.6% of global chemical sales. China was followed by the EU with 14.4% and the US with 12.3% of global sales, respectively.²⁰ This reflects a long-term trend of China's growing share of global chemicals sales (amounting to 25.8% a decade earlier), with the share of other players decreasing correspondingly (in the case of the EU from 19.3% in 2010 and in the case of the US from 16.5% in 2010).²¹ Even when set into the context of a continuously growing global market in chemicals (+6.1% in 2021), the chemical production was growing fastest in China with 7.7% growth in 2021 (6.0% in the EU and 1.8% in the US, respectively).²²

In its trade with the rest of the world, China has become a net exporter of chemicals, although it is close to a balanced trade position. In 2021, China exported USD 214 billion (USD 137 billion in 2020, USD 130 billion in 2019, USD 137 billion in 2018, USD 114 billion in 2017, USD 141 billion in 2016) and imported USD 190 billion (USD 150 billion in 2020, USD 155 billion in 2019, USD 156 billion in 2018, 133 billion in 2017, USD 152 billion in 2016) worth of chemicals.²³

16.2.2. MAIN INDUSTRY SEGMENTS

According to Chinese official statistics, manufacturing of raw chemical materials and chemical products represented the largest subsector in 2020, with more than 22 000 enterprises employing 3 400 000, and with revenue of approximately RMB 6 400 billion (approximately USD 980 billion). The second largest subsector was manufacturing of rubber and plastic products, with approximately 20 781 enterprises generating RMB 2 558 billion in revenue (approximately USD 391 billion) and employing 2 800 000. The processing of petroleum, coal and other fuels was the third largest sector, with 2 116 enterprises, RMB 4 198 billion in revenue (approximately USD 643 billion), and employment of 804 000 followed by the manufacturing of chemical fibres with 1 937

²⁰ See at: <https://cefic.org/a-pillar-of-the-european-economy/facts-and-figures-of-the-european-chemical-industry/profile/#h-eu27-market-share-dropped-significantly> (accessed on 29 August 2022).

²¹ *Ibid.*

²² See at: <https://report.basf.com/2021/en/managements-report/basf-group-business-year/economic-environment/chemical-industry.html> (accessed on 22 August 2023).

²³ See China Statistical Yearbook 2022, Section 11-4, available at: www.stats.gov.cn/sj/ndsj/2022/indexeh.htm (accessed on 22 August 2023). See the corresponding Section 11-4 also in the previous annual editions of the China Statistical Yearbook.

enterprises, RMB 800 billion in revenue (approximately USD 123 billion), and employment of 422 000.²⁴

On a more granular basis, the China Petroleum and Chemical Industry 2020 Economic Operations report²⁵ noted a rapid growth in the overall production of key chemicals, combined with a slight decline in the production of agrochemicals as follows:

Product	Output (million tons)	YoY change (%)
Key Chemicals		
Ethylene	21.6	+5.2
Benzene	10.42	+8.6
Methanol	49.84	+4.7
Paints	25.49	+2.6
Chemical reagents	28.24	+4.5
Sulfuric acid	92.38	-1.3
Caustic soda	36.74	+6.2
Soda ash	28.12	-2.9
Synthetic resin	104	+7.0
Polymers	74.19	+8.2
Tires	818	+1.7
Agrochemicals		
Nitrogen fertilizers	36.79	+2.7
Phosphate fertilizers	10.05	-6.9
Potash fertilizers	7.11	-7
Raw pesticide agents	2.15	-1.1

The corresponding 2021 report²⁶ observes a continued overall growth trend: “*in terms of main categories [...] the total quantity of basic chemicals increased by about 6.7%. The output of ethylene was 28.257 million tons, up 30.8% compared to the previous year; the output of chemical fertilizers remained basically the same with an aggregate output (converted into pure substances) was 55.436 million tons, up 0.9%, after last year’s decrease by 4.1%; raw materials for phyto-sanitary products increased by 7.8%; tire casings increased by 10.8%.*”

[...]

16.4. FINDINGS IN PREVIOUS TRADE DEFENCE INVESTIGATIONS

Concrete market distortions can also be identified in the results of anti-dumping and countervailing proceedings conducted by several jurisdictions in the chemical sector.

²⁴ See China Statistical Yearbook 2021, Section 13-2.

²⁵ See at: <http://lwzb.stats.gov.cn/pub/lwzb/tzgg/202107/W020210723348607291201.pdf> (accessed on 5 July 2023).

²⁶ Available at: <http://lwzb.stats.gov.cn/pub/lwzb/tzgg/202205/W020220511400435319593.pdf> (accessed on 22 August 2023).

In its *Acesulfam* investigation, the Commission pointed out the overlap between the managerial and Party functions of selected individuals, which in turn suggested an increasing level of intervention by Chinese authorities in the sector.²⁷ In that investigation, the Commission also identified a number of policy documents and tools illustrating the government's interference with market forces.²⁸

In its *Citric Acid* investigation,²⁹ the Commission found that the Government is actively shaping the corporate structure of the sector, in addition to being present in the market through ownership of a number of SOEs,³⁰ as well as having significant control over raw materials supply in the sector.³¹ The Commission also identified links to the CCP of individuals in managerial position in a number of companies in the sector, as well as to Party building activities in those companies.³²

In its *Monosodium Glutamate* investigation,³³ the Commission found that one company had the support of CCP members and local public authorities which coordinated matters of interest for the company,³⁴ while another company in the sector explicitly declared to be implementing State policies and CCP ideology in its activities.³⁵

[...]

16.5 CHAPTER SUMMARY ³⁶

The Chinese chemical sector remains one of the building blocks of China's industry, supplying essential inputs for many other key sectors, as well as providing consumer products for individuals.

Due to the sector's importance for both the upstream and downstream ends of value chains, the Chinese authorities have paid particular attention to it. This is apparent from the corporate layout of the sector where significant SOE presence persists, subject also

²⁷ See Commission Implementing Regulation (EU) 2022/116 of 27 January 2022 imposing a definitive anti-dumping duty on imports of acesulfame potassium originating in the People's Republic of China, following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council; OJ L19, 28.1.2022, p.1, recitals 95-96.

²⁸ *Ibid.*, recitals 98-99.

²⁹ Commission Implementing Regulation (EU) 2021/607 of 14 April 2021 imposing a definitive anti-dumping duty on imports of citric acid originating in the People's Republic of China as extended to imports of citric acid consigned from Malaysia, whether declared as originating in Malaysia or not, following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council; OJ L173, 15.4.2021, p.73.

³⁰ *Ibid.*, recital 94.

³¹ *Ibid.*, recital 101.

³² *Ibid.*, recital 97.

³³ See Commission Implementing Regulation (EU) 2021/633 of 14 April 2021 imposing a definitive anti-dumping duty on imports of monosodium glutamate originating in the People's Republic of China and in Indonesia following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council; OJ L 132, 19.4.2021, p. 63-107.

³⁴ *Ibid.*, recital 62.

³⁵ *Ibid.*, recital 63.

³⁶ P. 495.

to the ongoing consolidation of central level SOEs (see Chapter 5), exemplified by the Sinochem merger in 2021 (see Section 16.2.4). Moreover, State control is exercised through numerous planning and regulatory documents targeting the chemical sector (see Section 16.3). Some of those policies have been in place for an extended period of time (see Section 16.3.3.) but have been supplemented and updated in the more recent national and sub-national 14th FYPs (see Section 16.3.1). These plans demonstrate the State's influence over the sector. These planning documents, in combination with the ad hoc policy interventions of the Government (see Section 16.3.2), demonstrate that the State not only pursues a certain vision of the chemical sector but that it will step in to make necessary course corrections.

Most importantly, the authorities put an ever-greater emphasis on moving up the value chain, as well on the sector's environmental impact (see Section 16.3.1). The language of the relevant policy documents reflects these priorities by frequent references to *“optimization and structural adjustment”*, to *“enhancing technological transformation”* or to *“making leading enterprises bigger and stronger”* on the one hand, as well as to *“improvement of the environmental risk management”* or *“relocation and transformation of hazardous chemical production”* on the other hand. Irrespective of the nature of the overall priorities, the specific steps plotted to achieve them show that the Chinese authorities continue aiming at comprehensive management of the industry's development, often orchestrated in great detail, down to the level of individual localities, individual products and individual enterprises in terms of output targets, growth levels, etc. (see Section 16.3.2).

Consequently, the industrial policies in the chemical sector remain highly interventionist, with the State ready to deploy a wide range of regulatory tools, including fiscal, financial, investment or pricing measures (see Section 16.3.1). The regulatory documents explicitly request the relevant authorities and other actors – such as banks or industrial associations – to provide the necessary support for the national, regional, etc. industrial policies concerning the chemical sector, most notably by means of increased financial support (see Section 16.3.2). Along these lines, investigation practice of trade defence authorities in recent years has shown that a wide range of support measures for the chemical sector in general or for individual businesses introduced by the Chinese authorities at various levels exist (see Section 16.4), significantly impeding the free functioning of the market as well as company decisions which are therefore not genuinely market driven.

17. CERAMIC SECTOR

[...]

17.7 CHAPTER SUMMARY³⁷

The construction ceramics and daily-use ceramics are traditional sectors of the Chinese industry. The State has been closely overseeing, steering and managing their development since many decades. Advanced ceramics, being an important upstream sector for the high-tech industries, is also covered by various Government policies. As in the case of other key sectors, this State involvement is visible through the system of planning documents issued at all levels – from national to municipal. One important element that the State pushes in this context is the concentration of ceramic industrial clusters. This often translates into government requirements to develop large competitive conglomerates and enterprises are also directed to ‘reach out’ for foreign sales markets. Such consolidation would also facilitate greater control of the sector in order to implement government policies.

Compared to the 13th FYP period, the national level regulatory framework of the 14th FYP period focuses on more general aspects of the ceramics sector. However, regional and local plans provide detailed and specific targets, concerning, for example, industrial output, geographical distribution and value-chain positioning of the sector and R&D expenditure. Pursuing such targets is part of wider policies aimed at consolidation and modernization of the industry, with which businesses and the relevant implementing authorities are supposed to comply. The financial support from the various state levels may take the form of financial transfers (available under individual policy measures), preferential loans, export incentives, tax relieves and land-use cost relief, etc. In turn, these policies and the support related to them have direct and indirect consequences on the prices of inputs and hence on cost structures of companies, leading to significant market distortions in the sector.

18. TELECOMMUNICATIONS EQUIPMENT SECTOR

[...]

18.9 CHAPTER SUMMARY³⁸

China’s designation of the telecommunications equipment industry as critical for technological development and leadership is reflected in the myriad plans, policies and strategies that the country’s national and sub-national governments have promulgated. This web of government planning is implemented through a broad array of policies that benefit domestic firms – at the expense of foreign firms. By protecting the domestic market and promoting Chinese firms abroad, China has assisted its key stakeholders in developing a significant presence in the global telecommunications equipment market²⁴⁹⁴. 5G infrastructure is a case in point where China’s policies have allowed its

³⁷ P. 517.

³⁸ P. 547.

firms (notably, Huawei and ZTE) to operate relatively expensively on the protected home market, while helping them to offer less expensive services abroad.

China's distortions of the telecommunications equipment market come in a variety of forms. The State provides support to firms through procurement preferences, below market lending, tax relief and subsidies and grants. The government both explicitly and implicitly forces the transfer of technology from foreign firms to domestic entities. Internationally, China uses generous export financing to convince foreign governments and other buyers to purchase Chinese-made telecommunications equipment. China has also developed a national standardisation strategy that includes seeking leadership positions and exercising influence in international standards-setting bodies to promote Chinese commercial interests. China further protects its internal market through complex regulatory and licensing barriers. Finally, the government's inconsistent intellectual property enforcement leaves foreign firms vulnerable to intellectual property right violations and involuntary and uncompensated technology transfer.

[...]

19. SEMICONDUCTOR SECTOR

19.1.2. CHINA'S POSITION IN THE GLOBAL MARKETPLACE³⁹

Overall, total global semiconductor sales for 2022 were estimated to be valued at approximately USD 574.1 billion (~EUR 546 billion)⁴⁰—marking the highest total to date.⁴¹ In 2020, Chinese-headquartered firms were estimated to account for between 6,7% and 9% of global sales of semiconductor devices, with some estimates indicating that China surpassed Taiwan in global sales that year for the first time and was approaching a market share similar to that of Europe and Japan.⁴² In 2022, global semiconductor sales revenue rose to approximately USD 602 billion (~EUR 573 billion), up from USD 595 billion (~EUR 503 billion) in 2021.⁴³ Some estimates indicate that China's share of the overall market declined slightly in 2021, to as low as 6,5%.⁴⁴ It has

³⁹ P. 552.

⁴⁰ Throughout the chapter, conversions to EUR are based on the average exchange rate during the timeframe referenced, using the exchange rate calculator publicly available on the European Central Bank's website. European Central Bank. (2023). *Euro foreign exchange reference rates*, available at: https://www.ecb.europa.eu/stats/policy_and_exchange_rates/euro_reference_exchange_rates/html/index.en.html (accessed on 25 May 2023).

⁴¹ Semiconductor Industry Association ('SIA'). (2023). *Global Semiconductor Sales Increase 3.3% in 2022 Despite Second-Half Slowdown*, available at: <https://www.semiconductors.org/global-semiconductor-sales-increase-3-2-in-2022-despite-second-half-slowdown/> (accessed on 25 May 2023).

⁴² SIA. (2022). *China's share of global chip sales now surpasses Taiwan's, closing in on Europe's and Japan's*, available at: <https://www.semiconductors.org/chinas-share-of-global-chip-sales-now-surpasses-taiwan-closing-in-on-europe-and-japan/> (accessed on 25 May 2023).

⁴³ Gartner. (2023, January 17). *Gartner Says Worldwide Semiconductor Revenue Grew 1.1% in 2022* [Press release], available at: <https://www.gartner.com/en/newsroom/press-releases/2023-01-17-gartner-says-worldwide-semiconductor-revenue-grew-one-percent-in-2022> (accessed on 23 May 2023).

⁴⁴ *Ibid.*

been suggested that this decline may be at least partially a consequence of export control measures adopted by the US against Chinese semiconductor products.⁴⁵ While China's relative share may have dipped slightly, reporting by the Chinese Semiconductor Industry Association ('SIA') indicates that in absolute terms, "sales by China's integrated circuit industry in 2021 were about RMB 1.05 trillion [~EUR 137 billion], a year-on-year increase of 18,2%".⁴⁶

Since 2005, China has been the largest single-country market for semiconductors²⁵¹⁰. In 2020, China imported approximately USD 378 billion (~EUR 331,4 billion) in semiconductors.⁴⁷

[...]

19.2.2. EIGHT SOES AMONG THE TOP 10 CHINESE SEMICONDUCTOR FIRMS (2020)⁴⁸

Eight of the top 10 Chinese semiconductor firms (ranked by revenue for 2020) are either partially or fully-owned by the State⁴⁹2540:

1. HiSilicon (Huawei Technologies Co.)⁵⁰2541

2. SMIC⁵¹2542

⁴⁵ China Semiconductor Industry Association ('CSIA'), (2022). *The operation of China's integrated circuit industry in 2021*, available at: <https://web.csia.net.cn/newsinfo/2523503.html> (accessed on 25 May 2023); Gartner. (2022, April 14). *Gartner says worldwide semiconductor revenue grew 26% in 2021* [Press release], available at: <https://www.gartner.com/en/newsroom/press-releases/2022-04-14-gartner-says-worldwide-semiconductor-revenue-grew-26-percent-in-2021> (accessed on 25 May 2023).

⁴⁶ CSIA. (2022). *The operation of China's integrated circuit industry in 2021*, available at: <https://web.csia.net.cn/newsinfo/2523503.html> (accessed on 25 May 2023). This discrepancy in measurements across trade associations may be due in part to use of divergent data sets. In addition, it is possible that, even if China's market share was indeed decreasing, as reported by SIA, this may not correspond with an absolutely decrease in production quantities.

⁴⁷ PricewaterhouseCoopers. (2016). *China's semiconductor market*, available at: <https://www.pwc.com/gx/en/industries/technology/chinas-impact-on-semiconductor-industry/china-semiconductor-market.html> (accessed on 25 May 2023); Yinug, F. (2009). Challenges to foreign investment in high-tech semiconductor production in China. *US International Trade Commission Journal of International Commerce and Economics*; available at: https://www.usitc.gov/publications/332/journals/semiconductor_production.pdf (accessed on 8 June 2023).

⁴⁸ P. 556.

⁴⁹ SIA. (2022). *China's share of global chip sales now surpasses Taiwan's, closing in on Europe's and Japan's*, available at: <https://www.semiconductors.org/chinas-share-of-global-chip-sales-now-surpasses-taiwan-closing-in-on-europe-and-japan/> (accessed on 30 May 2023).

⁵⁰ Although Huawei has asserted that its employees own the company, through a virtual stockholding plan, 99% of shares legally reside in a state-controlled trade union, Trade Union Committee of Huawei Investment & Holding, which represents its shareholders. See Strumpf, D., & Wang, Y. (2019, April 25). *Huawei says it is employee-'owned'-but not really*. Wall Street Journal, available at: <https://www.wsj.com/articles/huawei-says-it-is-employee-owned-but-not-really-11556204552> (accessed on 26 October 2022).

⁵¹ Due to increased participations from the Big Fund, state-owned Datang Telecom, and Tsinghua Unigroup, State participation in SMIC grew from less than 15% in 2004 to more than 45% as of 2018. See OECD Report 2019, p. 8.

3. Jiangsu Changjiang Electronics Technology ('JCET')⁵²2543
4. OmniVision⁵³2544
5. UNISOC⁵⁴2545
6. ZTE Corp.
7. Nexperia⁵⁵
8. Huada Semiconductor⁵⁶

For two of these firms, SMIC and UNISOC (via its parent company Tsinghua Unigroup, which defaulted on its bonds in 2021 but has been kept afloat through debt restructuring⁵⁷), total government backing surpassed 30% of their annual consolidated revenues⁵⁸. Bolstered by an increased domestic appetite for '*home-grown*' technology, spurred in part by US export controls targeting Chinese semiconductor firms, certain of these Chinese '*giants*' continued to grow their production in 2022⁵⁹. For instance, SMIC "*reported a 67% surge in quarterly sales in mid-2022, outpacing far larger rivals*"⁶⁰.

⁵² Following JCET's acquisition of STATS-ChipPAC in 2015—a Singapore-based firm—the State now maintains control over roughly 20–35% of JCET. See *Ibid*.

⁵³ In 2016, OmniVision was acquired by Seagull International Ltd. and Seagull Acquisition Corp. (Seagull). Seagull is composed of a multitude of state-backed investment funds that claim to pursue state objectives. See US Trade Representative. (2018). *Findings of the investigation into China's acts, policies and practices related to technology transfer, intellectual property and innovation under Section 301 of the Trade Act of 1974*, p. 119, available at: <https://ustr.gov/sites/default/files/Section%20301%20FINAL.PDF> (accessed on 30 May 2023).

⁵⁴ UNISOC is the chip-making unit of state-owned Tsinghua Unigroup.

⁵⁵ Nexperia, a Netherlands-based chip firm, is owned by Wingtech Technology. Nearly 30% of Wingtech's shares can be traced back to the State. See Shead, S. (2021, July 7). *The Chinese firm behind the acquisition of the UK's largest chip plant is state backed, analysis shows*. CNBC, available at: <https://www.cnbc.com/2021/07/07/nexperia-owner-wingtech-is-backed-by-chinese-government-analysis-says.html> (accessed on 30 May 2023).

⁵⁶ Huada Semiconductor is owned by state-owned China Electronics Corp. See OECD Report 2019, p. 57.

⁵⁷ Pan, C. (2022, July 12). *China's Tsinghua Unigroup completes debt restructuring, ownership change to keep afloat its major semiconductor operations*. South China Morning Post, available at: <https://www.scmp.com/tech/big-tech/article/3185033/chinas-tsinghua-unigroup-completes-debt-restructuring-ownership> (accessed on 30 May 2023); Bray, C. (2020, December 10). *China chip maker Tsinghua Unigroup to default on US \$450 million bond as concerns mount over debt levels on mainland*. South China Morning Post, available at: <https://www.scmp.com/business/banking-finance/article/3113357/china-chip-maker-tsinghua-unigroup-default-us450-million?module=inline&pgtype=article> (accessed on 30 May 2023). As these sources reported, Tsinghua Unigroup was transferred to the Sichuan State-owned Assets Supervision and Administration Commission, with the expectation that the agency would then transfer the entity's assets to a state-owned enterprise under its control known as Sichuan Energy Industry Investment Group (SCEI). The disclosure is a slight deviation from a plan announced at the end of 2021 that said SCEI would directly take over Tsinghua Holdings.

⁵⁸ OECD Report 2019, p. 8.

⁵⁹ Liu, J. (2022, June 21). *US sanctions help China supercharge its chipmaking industry*. Bloomberg News, available at: <https://www.bloomberg.com/news/articles/2022-06-20/us-sanctions-helped-china-supercharge-its-chipmaking-industry?sref=OuEBXo2C> (accessed on 2 December 2023).

⁶⁰ *Ibid*.

In addition to state minority equity investment in private semiconductor firms, the Government has created several majority state-owned semiconductor firms, such as China Electronics Corp., ChangXin Memory Technologies and Yangtze Memory Technologies Co. These companies maintain an extensive presence in the industry, including through ownership or investment in ostensibly private firms⁶¹.

[...]

19.4.4. BELOW MARKET LENDING AND PREFERENTIAL LOANS⁶²

[...]

China's policy banks (see Chapter 6) – such as the CDB and Export-Import Bank of China ('EXIM') – also provide low interest rate loans to IC enterprises²⁷⁸².⁶³ For example, in 2014, EXIM provided a loan of RMB 70 million (~EUR 8,57 million) at an interest rate of 2,65% to Bengbu 3E Semiconductor Co., Ltd. for chip manufacturing²⁷⁸³.⁶⁴ Further, EXIM reportedly signed loan contracts with Wuxi Shennan²⁷⁸⁴⁶⁵ in 2014 and 2018 and provided the enterprise with a loan totalling RMB 720.47 million (~EUR 92,3 million), at an interest rate that was 5% below the benchmark rate²⁷⁸⁵.⁶⁶ The EXIM Shenzhen Branch also reportedly signed a loan contract with Shennan Circuits Co., Ltd. ('*Shennan Circuits*') in 2018 and provided it with a loan of RMB 200 million (~EUR 25,6 million) at the benchmark interest rate²⁷⁸⁶.⁶⁷ In 2015, CDB provided a low-interest loan of RMB 20 billion (~EUR 2,9 billion) to Sanan Optoelectronics²⁷⁸⁷,⁶⁸ including at least RMB 140 million (~EUR 20 million) at an interest rate of 1,2%²⁷⁸⁸.⁶⁹ In the same year, CDB provided several low-

⁶¹ Ezell, S. (2021). *Moore's Law under attack: The impact of China's policies on global semiconductor innovation*. Information Technology & Innovation Foundation, available at: <https://itif.org/publications/2021/02/18/moores-law-under-attack-impact-chinas-policies-global-semiconductor> (accessed on 30 May 2023).

⁶² P. 586.

⁶³ State Council. (2015). *Made in China 2025*, Art. 4.3, available at: http://www.gov.cn/zhengce/content/2015-05/19/content_9784.htm (accessed on 6 June 2023).

⁶⁴ Securities Times (STCN). (2020). *Response of Elec-Tech International Co., Ltd. to Shenzhen Stock Exchange's inquiry about the 2019 annual report*, available at: http://epaper.stcn.com/paper/zqsb/html/2020-06/20/content_1482184.htm (accessed on 8 June 2023).

⁶⁵ Wuxi Shennan is a subsidiary of Shennan Circuits, an IC company headquartered in Shenzhen, China. See Shennan Circuits. *About Shennan Circuits*, available at: <https://www.scc.com.cn/scc/en/gysn/index.html> (accessed 26 October 2022); see also Shennan Circuits. (2020). *Announcement No. 2020-024: Announcement on provision of guarantees for subsidiaries*, available at: https://pdf.dfcfw.com/pdf/H2_AN202003191376703881_1.pdf (accessed on 6 June 2023).

⁶⁶ Kangda Law Firm. (2019). *Supplemental legal opinion of Kangda Law Firm on Shennan Circuits' public offering of convertible bonds*, pp. 4-3-47, 4-3-48. Cninfo, available at: <http://static.cninfo.com.cn/finalpage/2019-12-20/1207179755.PDF> (accessed on 6 June 2023).

⁶⁷ *Ibid.*, p. 4-3-48.

⁶⁸ Sanan Optoelectronics is a semiconductor company publicly listed on the Shanghai Stock Exchange. See Sanan. *About the group*, available at: <https://www.sanan-e.com/about.html> (accessed on 6 June 2023).

⁶⁹ CMS. (2015). *CMS's study report on Sanan Optoelectronics*, p. 1, available at: http://pdf.dfcfw.com/pdf/H3_AP201510150011054878_1.pdf (accessed on 6 June 2023).

interest loans (1,2%) totalling RMB 1,67 billion (~EUR 240 million) to SMIC and its subsidiaries⁷⁰.

[...]

19.6 CHAPTER SUMMARY⁷¹

The Government has issued numerous plans, directives and other documents pertaining to the semiconductor industry – at the national, regional and municipal levels. Taken together, these policies show the high degree of government intervention in the sector. Through these and other instruments, the Government exercises substantial direction and control over the development and functioning of the sector (Section 19.3). China's domestic market is served in large part by large SOEs or nominally private firms in which government-backed investments play a substantial financial role, together accounting for a dominant share of Chinese production capacity in the semiconductor industry (Section 19.1.2).

The most substantial tools employed by the Government to develop and manage the semiconductor industry are government-backed investment funds. Of these funds, the Big Fund is the largest in terms of scale. Through this Fund, as well as other smaller sister funds established at the provincial and municipal levels, the Government has expanded its ownership share in domestic semiconductor firms. Utilizing government-backed investment funds set up by state agencies, ostensibly as limited partnership financiers that provide fresh capital and heavily impact investment decision-making, the State has increased its ownership of semiconductor assets while providing substantial injections of capital.⁷² Through such public investments as well as government regulatory and industrial policies, the State has diverted capital from other sectors, in particular seeking to incentivise the movement of private investment and talent from soft technology sectors, such as consumer internet services, toward hard technology sectors, including semiconductors.⁷³

Beyond development plans and government-backed investment funds, the Government's intervention in the sector has taken shape, *inter alia*, through preferential lending programs, tax relief programs and other direct financial support measures – in each

⁷⁰ Shanghai Stock Exchange. (2016). *Prospectus of Semiconductor Manufacturing International Corporation*, p. 1-1-79, available at: <http://static.sse.com.cn/bond/bridge/information/c/201701/b62c89ed9b8347a184de867a13a51388.pdf> (accessed on 6 June 2023).

⁷¹ P. 601.

⁷² Luong, N., Arnold, Z., & Murphy, B. (2021). *Understanding Chinese government guidance funds: An analysis of Chinese-language sources*. CSET, p. 5, available at: <https://cset.georgetown.edu/wp-content/uploads/CSET-Understanding-Chinese-Government-Guidance-Funds.pdf> (accessed on 7 June 2023).

⁷³ Goldman Sachs. (2021). *Is China investable?*, available at: <https://www.goldmansachs.com/insights/pages/gs-research/is-china-investable/report.pdf> (accessed on 7 June 2023).

case, implemented at both the national level and sub-national levels—designed to encourage firms to undertake projects in the IC industry.⁷⁴ In addition, China also implements trade-related measures and VAT rebate policies designed to decrease imports of goods also produced in China, while facilitating imports of key technologies for which there is little domestic supply. Lastly, several trade defence investigations have established that the Government has consistently granted different types of state support measures to producers of materials that are also used in the semiconductor supply chain (Section 19.5.3).

20. RAILWAY INDUSTRY SECTOR

[...]

20.5. CHAPTER SUMMARY⁷⁵

China has supported the development of its railway industry, and especially high-speed rail and its components, through a variety of plans, policies and strategies issued by the country's central and local governments. Government policy facilitated the transfer of high-speed rail technology from foreign to Chinese companies while this industry was still nascent in China. In the nearly 20 years since then, China has provided financial support via grants, equity investments, and preferential tax and loan treatment to its essentially state-owned railway industry while shielding domestic companies from international competitors.

Reforming how the industry is structured and regulated has been instrumental in China's development of the sector. The 2015 forced merger of CNR and CSR to form CRRC created a national and, increasingly, global champion in rolling stock manufacturing. In 2013, and again in 2017, China reorganised the supervision of its railway industry to separate regulatory and inspection duties from operations and to allow China Railway to operate as a modern enterprise. Since then, China Railway has invested in railway infrastructure development, including through its role as government representative of the China Railway Development Fund Co., Ltd.

China Railway also plays a role in government procurement, launching tenders for railway component purchases for the country's rail projects that are inaccessible to foreign companies, and even foreign-Chinese joint ventures have seen their access to public tenders diminish.

The totality of China's interventions in its domestic market have sheltered China's railway SOEs from foreign competition at home and enabled them to significantly undercut their

⁷⁴ A Whitepaper 2021, p. 3.

⁷⁵ P. 633.

European, Japanese, and US competitors abroad. At the same time, China's projects through the BRI and other initiatives helped push Chinese overcapacity overseas, sometimes through financing arrangements that contributed further indirect distortions on the Chinese domestic market.

21. ENVIRONMENTAL GOODS (RENEWABLE ENERGY SECTOR)

[...]

21.5 CHAPTER SUMMARY⁷⁶

Solar cells, wind turbines, and GHPs are all environmental goods that play major roles in the transition to more renewable sources of energy. Chinese firms manufacturing these goods have become dominant players in their respective global markets. These positions of dominance reflect a decades-long focus by China on using state support to foster domestic manufacturing capabilities. Moreover, these industries continue to benefit from the distortionary policies that apply horizontally across the Chinese economy. In all three mentioned sectors, China has the largest manufacturing capacity and is likely to continue its growth based on current projections³²⁷³. Certain forms of support – such as access to the HNTE reduction on EIT and the use of forced labour in the production of needed components – continue to provide Chinese firms with market distortive advantages over their international competitors. Accordingly, the global markets for these environmental goods are distorted by the lingering effects of China's subsidies specific to these industries, the impact of horizontal subsidies across the Chinese economy and the ongoing use of specific forms of state support.

22. NEW ENERGY VEHICLES SECTOR

[...]

22.5. CHAPTER SUMMARY⁷⁷

This chapter shows that the lack of tradition and technology to produce ICEs brought China to develop a regulatory background for the transition to the NEV industry as early as 2005 (see Section 22.3.1). Having started this transition in advance compared to other countries, the Government is seeking the opportunity to make China the powerhouse for the production of NEVs to be exported to developed economies, reversing the roles in the ICE market. Leveraging on a comprehensive framework of support from the central and local Government throughout the value chain – from essential raw materials to batteries to the NEVs – China turned into the first producer and exporter of NEVs in the world as a matter of national interest (see Sections 22.2.1-22.2.3). Thus, after creating the industry,

⁷⁶ P. 654.

⁷⁷ P. 702.

the Government put in place a set of measures that, when considered together, allows it to exercise control over the growth of the industry and to direct its development (see Section 22.3). At the heart of it, the Dual-Credit Policy (see Section 22.3.10) rewards NEV producers fulfilling production targets and sanctions companies failing to meet them, compelling them to offset their ‘debits’ by purchasing ‘credits’ from performing companies or the performing companies altogether. This focus on production favours larger companies and the consolidation of the market. At the same time, the Government controls also the sales by suppressing the prices of the NEV types and models it intends to favour through a purchase subsidy paid to the NEV producers (see Section 22.3.3) and a purchase tax exemption (see Section 22.3.14). The termination of the purchase subsidy granted by the central Government at the end of 2022 did not prevent the continuation of other programs and of similar subsidies granted by lower administrative levels of government (see Section 22.3.3). Indeed, the provinces and the main cities appear to be in competition amongst them to have NEV producers in their area, in order to attract employment, revenues and the attention of the central Government. Thus, many local Governments and local branches of State-owned banks provided the investments needed by NEV start-ups to develop their operations, so that considerable shares of the equity and debt of NEV producers have become State-owned (see in particular Sections 22.3.16 and 22.4.5). Against this background, the intervention of the Government at both central and local level is liable to give rise to market distortions in the Chinese NEV and battery industries.

[...]

Trade Policy Review Body: TRADE POLICY REVIEW
REPORT BY THE SECRETARIAT CHINA (19 november
2024)

1. ECONOMIC ENVIRONMENT

1.1 Main features of the economy

1.2 Recent economic developments

[...]

1.2.3 Fiscal policy⁷⁸

1.20. During the pandemic, fiscal policy was supportive with a package equivalent to about 3%-4% of GDP. Since 2022, the objective of fiscal policy has been to support post-pandemic recovery through expanded public investment and a series of tax and other relief measures.

1.21. China's tax to GDP ratio amounted to 14% in 2022, compared to 17% in 2018. No information was provided on the contribution of individual tax types to total fiscal revenue.

1.22. China's total debt-to-GDP continued to increase strongly during the review period, following a brief pre-pandemic stabilization. Augmented government debt²⁰ amounted to 116% of GDP in 2023, up from 99% in 2020.²¹ This increase was largely driven by off-budget central government debt and on-budget local government debt. Corporate debt, commanded mostly by SOEs, also increased notably during the review period, while household credit fell slightly. Against the background of rapid debt accumulation since 2008, narrowing fiscal space, and a rapidly ageing population, sustained fiscal consolidation is important in the medium term.²²

¹⁷ IMF (2024), IMF Country Report No. 24/38.

¹⁸ A. Gelpern et al. (2021), "How China Lends: A Rare Look into 100 Debt Contracts with Foreign Governments", *Economy Policy*, Vol. 38, Issue 114, pp. 345-416.

¹⁹ IMF (2024), IMF Country Report No. 24/38.

²⁰ The augmented deficit, as defined by the IMF, includes local government investment vehicles, government-guided funds, and other off-budget activities. IMF (2024), IMF Country Report No. 23/67, p. 54.

²¹ IMF (2024), IMF Country Report No. 24/38.

²² IMF (2024), IMF Country Report No. 24/38.

1.2.4 Structural measures⁷⁹

1.23. Structural reforms since China's previous Review include the removal of restrictions on foreign participation in the telecommunications and financial sectors (Sections 4.4.1 and 4.4.2), the establishment of specialized tribunals to expedite the liquidation of inefficient SOEs (Section 3.3.5), and some moderate tariff reductions (Section 3.1.3).

1.24. Vast state ownership remains an important characteristic of China's economy; even in commercially oriented sectors, SOEs have substantial market shares and dominant market power. During the period under review, the reform of SOEs proceeded almost exclusively in the context of mixed ownership; no substantial privatization took place (Section 3.3.5).

1.2.5 Balance of payments⁸⁰

⁷⁸ P. 13.

⁷⁹ P. 20.

⁸⁰ P. 20.

1.25. China's current account surplus strongly increased between 2018 and 2022, when it amounted to USD 402 billion, equivalent to 2.24% of GDP (Table 1.3). In 2023, the surplus fell to 1.5% of GDP. Developments behind the increased current account surplus include a strongly growing surplus in merchandise trade, with export growth outpacing import growth most of the time, and a considerable decline in the service balance deficit, caused largely by a drop in outbound tourism. The share of merchandise exports and imports in GDP amounted to 32.2% in 2023, up from 30.5% in 2020, indicating the economy's increased openness.

1.26. The financial account (excluding reserve assets) has posted a deficit since 2020; this may reflect growing capital outflow pressures, such as widening interest rate differentials with other major economies in 2022 and 2023, concerns about China's growth prospects, and rising geopolitical risks. The deficit rose to USD 311 billion in 2022, but fell again to around USD 244 billion in 2023. Direct investment posted a surplus in all recent years. Projects under the BRI continued to play an important role in outward investments.

Table 1.3 Balance of payments, 2018-23

(USD million)

	2018	2019	2020	2021	2022	2023 ^a
Current account	24,131	102,910	248,836	352,886	401,855	264,200
Goods and services balance	87,905	131,844	358,573	461,494	576,330	378,600
Trade balance	380,074	392,993	511,103	562,706	668,633	608,000
Exports	2,417,443	2,386,640	2,510,015	3,215,838	3,346,875	3,179,600
Imports	2,037,369	1,993,647	1,998,912	2,653,132	2,678,242	2,571,600
Service balance	-292,168	-261,149	-152,530	-101,212	-92,303	-229,400
Exports	233,567	244,359	228,883	339,393	368,953	323,200
Imports	525,735	505,508	381,414	440,605	461,256	552,600
Income	-61,365	-39,184	-118,192	-124,476	-193,607	-129,600
Credit	268,496	273,514	245,502	327,316	190,246	240,000
Compensation of employees	18,109	14,258	14,714	17,118	20,429	..
Investment income	248,295	257,464	227,941	306,814	165,763	..
Other	2,092	1,792	2,847	3,383	4,054	..
Debit	329,861	312,699	363,695	451,792	383,853	369,600
Compensation of employees	9,946	11,157	14,530	18,501	14,082	..
Investment income	319,616	300,820	348,344	432,632	368,903	..
Other	299	722	820	659	868	..
Current transfers	-2,410	10,250	8,455	15,868	19,132	15,200
Credit	27,757	25,907	36,019	48,794	44,710	37,600
Personal transfers	6,196	4,037	4,162	5,361	5,677	..
Other	21,560	21,871	31,857	43,433	39,033	..
Debit	30,167	15,657	27,563	32,927	25,578	-22,400
Personal transfers	6,602	3,979	3,766	4,457	4,174	..
Other	23,565	11,679	23,797	28,470	21,404	..
Capital account	-569	-327	-76	94	-310	-300
Financial account	153,795	26,598	-89,997	-218,514	-310,989	-243,900
Assets	-362,039	-260,532	-675,185	-894,905	-281,539	..
Liabilities	515,835	287,130	585,188	676,392	-29,450	..
Financial account excluding reserve assets	172,682	7,308	-61,147	-30,288	-211,028	-228,300
Direct investment	92,338	50,260	99,375	165,277	30,475	..
Assets	-143,027	-136,910	-153,721	-178,798	-149,692	..
Liabilities	235,365	187,170	253,096	344,075	180,167	..
Portfolio investment	106,874	57,948	95,539	51,366	-281,113	..
Assets	-53,507	-89,419	-151,236	-125,262	-173,193	..
Equity securities	-17,712	-29,332	-131,383	-84,732	-47,697	..
Debt securities	-35,795	-60,087	-19,852	-40,530	-125,496	..

	2018	2019	2020	2021	2022	2023 ^a
Liabilities	160,381	147,366	246,775	176,628	-107,920	..
Equity securities	60,668	44,906	80,335	82,901	34,388	..
Debt securities	99,713	102,460	166,440	93,727	-142,308	..
Financial derivatives (other than reserves) and employee stock options	-6,153	-2,355	-10,821	10,237	-5,812	..
Assets	-4,816	1,393	-5,064	17,082	2,698	..
Liabilities	-1,338	-3,748	-5,757	-6,845	-8,510	..
Other investment	-20,376	-98,545	-245,239	-257,168	45,422	..
Assets	-141,803	-54,886	-336,314	-419,701	138,610	..
Other equity	-1,493	-1,491	-494	-555	-201	..
Currency and deposits	-14,999	-101,750	-146,258	-166,149	12,493	..
Loans	-81,830	25,962	-135,190	-139,766	101,091	..
Insurance, pension, and standardized guarantee schemes	-573	-1,168	-3,163	-4,350	-5,568	..
Trade credits and advances	-65,300	36,800	-37,116	-61,086	10,345	..
Other accounts receivable	22,392	-13,240	-14,093	-47,796	20,449	..
Liabilities	121,427	-43,659	91,074	162,534	-93,187	..
Currency and deposits	51,436	-55,734	92,237	66,305	-52,760	..
Loans	32,115	42,540	-18,270	9,575	-17,838	..
Insurance, pension, and standardized guarantee schemes	210	1,803	3,102	3,302	2,455	..
Trade credits and advances	40,800	-28,750	7,816	33,377	-31,415	..
Other accounts payable	-3,135	-3,517	6,189	8,363	6,371	..
Reserve assets	-18,887	19,291	-28,850	-188,226	-99,961	-15,600
Net errors & omissions	-177,358	-129,181	-158,763	-134,466	-90,557	-20,000

.. Not available.

a Preliminary data.

Note: In the financial account, a positive value for assets represents a net decrease, while a negative value represents a net increase. A positive value for liabilities represents a net increase, while a negative value represents a net decrease.

Source: State Administration of Foreign Exchange. Viewed at: <http://www.safe.gov.cn/>.

[...]

3.1 Measures directly affecting import⁸¹

[...]

3.2. Measures directly affecting export⁸²

[...]

3.3 Measures affecting production and trade⁸³

[...]

⁸¹ P. 40.

⁸² P. 60.

⁸³ P. 68.

3.3.1 Incentives

3.101. During the period under review, China continued to provide financial support (including incentives and subsidies) at both the central and local government levels, in a variety of forms to different sectors and industries, focusing mainly on industry, science, and technology.

3.102. Policies and industries identified as priority areas for support are outlined in the Central Government's Outline of the 14th Five-Year Plan (2021-2025) for National Economic and Social Development and Long-range Objectives through the Year 2035.¹¹⁷ With the long-term goal of "modern socialism", the Five-Year Plan highlights innovation-driven development including digitalization, agricultural and rural development, improvement of state-owned enterprises (as well as private enterprises and foreign-invested enterprises), green development, people's well-being, and economic security.¹¹⁸ It also emphasizes the role of the digital economy and includes the new government strategy of "dual circulation".¹¹⁹ The Five-Year Plan highlights financial support in science and technology, high-tech enterprises, patents, and agriculture.¹²⁰

¹¹⁵ The authorities state that this relates only to official export credit.

¹¹⁶ China Eximbank, 2022 Annual Report. Viewed at:

http://www.eximbank.gov.cn/aboutExim/annals/2021_877/202306/U020230609413828602225.pdf.

¹¹⁷ 14th Five-Year Plan for National Economic and Social Development and the Long-Term Goals for 2035.

¹¹⁸ Government of China, *Major Targets in the 14th Five-Year Plan (2021-2025)*. Viewed at: <http://english.www.gov.cn/w/14thfiveyearplan/>.

¹¹⁹ "Dual circulation" is a government strategy referring to a development pattern that prioritizes "domestic consumption while remaining open to international trade and investment". IMF (2023), *Growing Threats to Global Trade*. Viewed at: <https://www.imf.org/en/Publications/fandd/issues/2023/06/growing-threats-to-global-trade-goldberg-reed>.

¹²⁰ Funding and preferential tax treatment provided to encourage enterprises to engage in basic research on science and technology (Chapter 4); tax incentives provided to R&D expenses and high-tech

3.103. During the review period, China submitted two notifications on subsidies to the WTO. The notification submitted in August 2021 covers subsidies provided in 2019 and 2020, and the one submitted in July 2023 covers the years 2021 and 2022.¹²¹ The 2021 notification contains 71 central-level programmes that consist of 53 preferential tax policies and 18 financial appropriations, and 374 financial appropriations provided by 36 subcentral governments. The 2023 notification reports 69 central-level programmes that consist of 54 preferential tax policies and 15 financial appropriations. Thirty-six subcentral governments provide 385 financial appropriations.

3.104. The objectives of the notified measures vary and include promoting cutting-edge and traditional industries, supporting SMEs, helping development in rural areas, attracting FDI, protecting the environment, and helping people with disabilities. The subsidies on both the central and subcentral government levels are provided in the form of preferential tax treatments, grants, financial appropriations, and funds for specific objectives. Specifically, financial incentives to promote technology and innovation and support agriculture make up many notified programmes.

3.105. The largest single notified subsidy is a fund for the development of agricultural production of CNY 232,483 million. At the subcentral level, fiscal funds for poverty alleviation and rural revitalization in various provinces are the biggest. Almost all financial appropriations at the central level have data on their amounts in the notifications. However, the amounts of financial appropriations at the subcentral level concerning 54 programmes out of 374 in the 2021 notifications and 37 out of 385 in the 2023 notification are not available; the authorities state that this is due to statistical difficulties. The notifications do not provide any data on subsidy amounts for preferential tax policies, which according to the authorities is due to statistical difficulties.

3.106. During the review period, China continued to provide financial support to its agriculture sector (Section 4.1.1.4.3). China's 2021 and 2023 subsidy notifications also provide information about various programmes in the agriculture sector. China notified its domestic support measures in December 2022.¹²² In the fisheries sector, eight programmes at the central government level were notified in 2021, and three programmes in 2023.¹²³

3.107. In response to China's 2021 subsidy notification, Members submitted several communications (including questions).¹²⁴ These communications seek clarification on China's Government Guidance Funds (GGFs), state-owned banks, non-notified subsidies, funds for resolving overcapacities, and eligibility criteria. In its replies, China provided further details of the notified subsidies; the replies did not provide information on GGFs, state-owned banks, or the amount of non-notified expenditure.¹²⁵ In response to China's 2023 subsidy notification, several communications (including questions) were submitted by other Members.¹²⁶

3.108. Overall, the two notifications submitted to the WTO during the review period and the replies provided by China do not enable the Secretariat to have a clear picture of China's support programmes. For example, the notifications do not provide information on expenditure levels in sectors where government support is likely to have global repercussions, such as aluminium, electric vehicles, solar modules, glass, shipbuilding, semiconductors, or steel. Materials made available to the Secretariat for this Review provide only limited information beyond the two notifications on China's subsidies.

3.109. Information available from commercial databases indicates large amounts of public support for companies in key economic sectors. Two databases, Wind and CSMAR, collect information based on annual balance sheets of companies listed on the three major Chinese stock exchanges. The data on support indicated in these databases exclude tax incentives but include grants and non-monetary assets given free of charge. Figures also exclude support paid to non-listed companies. According to

enterprises (Chapter 5); optimization of the patent subsidy and for highly valued patents and patent-intensive industries (Chapter 7); support to develop an environment for private enterprise (Chapter 19); an agricultural subsidy policy (Chapter 25); and financial support to public services (Chapter 46). People's Government of Fujian Province. Viewed at: https://www.fujian.gov.cn/english/news/202108/t20210809_5665713.htm#C46.

¹²¹ WTO documents [G/SCM/N/372/CHN](#), 27 August 2021; and [G/SCM/N/401/CHN](#), 20 July 2023.

¹²² WTO document [G/AG/N/CHN/63-67](#), 14 December 2022.

¹²³ WTO documents [G/SCM/N/372/CHN](#), 27 August 2021; and [G/SCM/N/401/CHN](#), 20 July 2023.

¹²⁴ WTO documents [G/SCM/Q2/CHN/105](#), 106, 107, 110, 113, 114, 119, 120, 27 January 2022–24 January 2023.

¹²⁵ WTO documents [G/SCM/Q2/CHN/111](#), 112, 115–118, 121–123, 25 April 2022–26 April 2023.

¹²⁶ WTO documents [G/SCM/Q2/CHN/124](#), 125, 126, 22–23 January 2024.

the Wind database¹²⁷, China's total public support amounted to over CNY 250 billion in 2022 (Table 3.12). According to the CSMAR database¹²⁸, total support amounted to over CNY 245 billion in 2022, with a strong concentration in manufacturing (Table 3.13). Both databases show a large increase of support since 2018.

Table 3.12 Public support based on the Wind database, 2018–22

(CNY million)

Sector	2018	2019	2020	2021	2022
Materials	20,757.7	26,120.1	29,016.8	26,706.6	34,759.2
Telecom services	1,835.3	3,169.1	3,102.2	3,675.4	4,497.3
Real state	2,996.9	3,555.9	5,033.2	4,614.3	4,452.7
Industry	33,636.2	41,054.7	52,612.5	52,205.7	59,850.9
Utilities	4,489.1	5,622.3	5,354.0	7,975.7	7,885.2
Finance	8,420.7	8,682.1	11,043.3	12,970.8	14,150.7
Optional consumption	31,664.8	37,126.0	37,153.7	36,912.4	36,459.5
Energy	12,515.5	11,530.6	14,348.2	7,251.4	8,438.7
Daily consumption	7,397.3	8,292.4	10,726.7	10,311.3	11,116.0
Information technology	31,925.0	38,548.8	43,460.3	46,013.3	52,710.0
Medical insurance	11,084.0	12,614.7	16,177.2	15,521.4	16,266.9
Total	166,722.4	196,316.7	228,028.2	224,158.3	250,587.1

Source: WTO Secretariat, based on Wind Economic Database and Wind's definition of support and subsidy.

Table 3.13 Public support based on the CSMAR database, 2018-22

(CNY million)

Sector	2018	2019	2020	2021	2022
Mining	12,372.1	11,670.7	14,617.4	7,505.0	9,038.8
Electricity, heat, gas and water production and supply industry	4,062.6	5,417.6	4,960.2	7,777.0	7,700.4
Real estate	2,504.4	2,929.3	4,439.1	3,738.2	3,476.8
Construction	3,991.8	5,634.1	7,047.2	8,359.9	9,427.1
Transportation, storage and postal services	5,887.4	6,117.6	8,768.0	7,892.1	9,763.0
Education	112.1	165.2	218.6	118.6	84.4
Finance	7,343.9	8,243.0	11,031.5	13,132.9	14,252.4
Residential services, repairs and other services	10.2	3.2	2.4	0.0	0.1
Scientific research and technical services	669.5	985.2	1,294.6	1,712.6	2,181.0
Agriculture, forestry, animal husbandry and fisheries	845.2	969.2	1,429.5	1,656.8	1,712.8
Wholesale and retail trade	4,264.9	5,012.6	8,027.8	6,617.7	7,086.4
Water conservancy, environment and public facilities management	862.9	1,282.9	1,768.5	1,788.9	1,777.8
Health and social work	139.6	151.8	271.2	351.9	336.6
Culture, sports and entertainment	1,964.6	2,101.1	2,153.4	1,785.4	1,927.0
Information transmission, software and information technology services	5,188.5	6,920.5	8,099.7	8,953.5	12,885.0
Manufacturing	97,662.2	115,815.8	133,226.7	136,756.2	159,723.3
Accommodation and catering	121.8	158.9	688.0	481.5	160.1
Comprehensive	251.4	596.8	729.5	569.8	610.0
Leasing and business services	2,615.8	2,601.2	2,425.2	2,563.1	2,940.3
Total	150,871.0	176,776.5	211,198.8	211,761.0	245,083.3

Source: WTO Secretariat, based on CSMAR database and CSMAR's definitions of support and subsidy.

[...]

3.3.5 State trading and state-owned enterprises⁸⁴

3.186. China provided its last full notification on state trading enterprises (STEs) in 2021. The legislation and regulations remained unchanged during the review period. According to the authorities, state trading remains in place to ensure a stable supply and price of the products concerned, ensure food security, protect exhaustible and non-recyclable natural resources and the environment, and achieve the goal of sustainable development.

3.187. STEs in China have the exclusive right to import or export the following products: tobacco, crude and processed oil, refined coal, chemical fertilizers, tungsten and tungstate products, antimony and antimony products, and silver. According to the notification, non-STEs with registered rights can handle part of the import quota for specific products, e.g. wheat, maize, rice, sugar, and cotton, subject to conditions outlined in annual announcements. At the same time, a certain number of non-STEs are permitted to import or export chemical fertilizers, crude oil, and processed oil.

3.188. The authorities indicate that STEs operate with the market mechanism and include the following corporations: COFCO Corporation, China National Sugar and Alcohol Group Corporation Ltd, China Commercial Foreign Trade Corporation, China Tobacco International Inc., Sinochem Group, China International Petroleum and Chemicals Co. Ltd, China National United Oil Corporation, Zhu Hai Zhen Rong Company, China Aviation Oil Imp. & Exp. Co. Ltd, China National Offshore Oil Corporation, China National Agricultural Means of Production Group Co., Chinatex Corporation Ltd, Beijing Jiu Da Textiles Group Cooperation, Tianjin Textiles Industry Supply and Sales Co. Ltd, Shanghai Textiles Raw Materials Co. Ltd, China National Cotton Reserves Corporation, Xinjiang Yin Long International Agricultural Cooperation Co. Ltd, China National Cotton Group Corporation, Xinjiang Jintianlu Agricultural Products Logistics Co. Ltd, Jilin Grain Group Imp. & Exp. Co. Ltd, Beidahuang Group. Co. Ltd, and Beijing Oriental Desheng Grain Import & Export Co. Ltd.

3.189. In China's economy, state ownership of companies coexists with diverse private ownership forms, ranging from wholly SOEs to mixed-ownership structures. The authorities consider that the state-owned economy is the leading force of the national economy, and the non-public economy is an important component of the socialist market economy. The Government promotes a mixed-ownership economy given the preponderance of public ownership, which the authorities indicate is the core of the "socialist market economy"; mixed-ownership is intended to encourage integration between state-owned, collective, private, and other forms of capital. The private sector dominates industries like clothing, food, and export assembly, while state ownership prevails in sectors such as energy, utilities, transport, and financial and telecom services. SOEs are categorized into commercial and public welfare entities.

3.190. While privatization of SOEs is not planned, various changes have taken place under "mixed-ownership reform". According to the authorities, the three-year action plan (2020-22) of China's SOE reform generally resulted in increased efficiency and market-orientation of SOEs. A new round of SOE reform started in July 2023, with a focus of institutional reorganization, industrial re-layout, and technological innovation.

3.191. The number of SOEs in both the industrial and construction sectors increased over the review period. The percentage of SOEs in the industrial sector slightly increased in contrast to the construction sector (Table 3.22). The profits of industrial SOEs have also grown, with a peak in 2021. The gross output value of SOEs in the construction sector increased steadily, whereas the market share of SOEs fluctuated around 12%. The share of SOEs in total profits has increased over the past years in the construction sector.

⁸⁴ P. 87.

3.192. The State-Owned Asset Supervision and Administration (SASAC) oversees the value creation and incrementation of state-owned capital, appoints and assesses heads of enterprises according to law, rewards or punishes them based on their performance, and guides SOE reform and M&A. It acts as a representative of the Central Government as well as an investor, and it is directly subordinated to the State Council. The authorities state that the supervision of central SOEs by SASAC is subject to investor rights rather than administrative power. As at March 2024, the number of SOEs directly under SASAC's authority totalled 97, the same number as in January 2021. SOEs in the financial sector, or central financial enterprises (26 in total), are under the direct administration of the MOF.

3.193. State-owned listed companies (including 441 central state-owned holdings and 910 local state-owned holdings) totalled 1,351 together accounting for 26.6% of total listed companies in 2022. Among the top listed companies with high market value, the proportion of state-owned holdings is particularly high. Many large and formally private companies, including those listed on the stock market, have the State as an important or major shareholder, through direct ownership or state investment vehicles.

Table 3.22 SOEs in China's economy, 2017-22

Sector	2017	2018	2019	2020	2021	2022
Industrial sector^a						
Number of total enterprises	372,729	378,440	377,815	399,375	441,517	472,009
Number of SOEs ^b	19,022	18,670	20,683	22,072	25,180	27,065
% of SOEs	5.1	4.9	5.5	5.5	5.7	5.7
Total assets (CNY billion)	112,191	113,438	120,587	130,350	146,672	160,193
Total assets of SOEs ^b (CNY billion)	43,962	43,991	46,968	50,046	56,508	60,425
% of SOEs	39.2	38.8	38.9	38.4	38.5	37.7
Total profits (CNY billion)	7,492	6,635	6,580	6,847	9,293	8,416
Total profits of SOEs ^b (CNY billion)	1,722	1,858	1,607	1,535	2,444	2,440
% of SOEs	23.0	28.0	24.4	22.4	26.3	29.0
Construction sector						
Number of enterprises	88,074	96,544	103,805	116,722	128,743	143,446
Number of SOEs	3,453	3,080	3,309	3,746	3,920	4,439
% of SOEs	3.9	3.2	3.2	3.2	3.0	3.1
Gross output value (CNY billion)	21,394	23,509	24,844	26,395	29,308	30,794
Gross output value of SOEs (CNY billion)	2,641	2,626	3,066	3,488	3,763	4,409
% of SOEs	12.3	11.2	12.3	13.2	12.8	14.3

a Including mining, manufacturing, and production and supply of electricity, gas, and water.

b Numbers referring to SOEs including state-holding enterprises.

Source: National Bureau of Statistics, *China Statistical Yearbook* (various issues).

3.194. Of China's 10 largest SOEs, 7 are under SASAC's supervision (Table 3.23) compared to 3 in 2021. As at end-2023, the number of employees in enterprises under SASAC's supervision is approximately 29.3 million.

Table 3.23 China's 10 largest SOEs, 2023

(USD billion)

Company	Revenue
State Grid ^a	530.0
China National Petroleum ^a	483.0
SINOPEC Group ^a	471.2
China State Construction Engineering ^a	305.9
Industrial & Commercial Bank of China	214.8
China Construction Bank	202.8
Agricultural Bank of China	187.1
Sinochem Holdings ^a	173.8
China Railway Engineering Group ^a	171.7
China National Offshore Oil ^a	164.8

a Controlled by SASAC.

Source: Fortune, *Global 500*. Viewed at: <https://fortune.com/ranking/global500/>.

3.195. SOEs are an essential element in the Chinese economy; while some view SOEs as key instruments for implementing government policies, supporting national industrial goals, and maintaining state control over critical sectors, thus fostering economic stability and influencing global competitiveness, the authorities state that China's SOEs consistently base their actions on commercial considerations and engage in business activities according to market-oriented and rule-of-law principles. According to the IMF, the productivity of China's listed SOEs is generally low compared with that of privately owned listed companies; reforms could have the potential to equalize the differences caused by resource misallocation. It has been estimated that closing productivity gaps between SOEs and private companies would increase productivity by about 6%.¹⁷⁵

3.196. The China SOE Structural Adjustment Fund, established in 2016 with an initial endowment of CNY 131 billion, aims to optimize the management and development of SOEs, through the financing of SOE restructuring, and overseas mergers and acquisitions, to enhance industrial integration and improve the efficiency in general. The second phase of the Fund was launched in 2021, with a paid-in capital of CNY 737.5 billion in 2021, aiming to invest in strategic emerging industries and in key areas affecting national security. The authorities state that the Fund is established, invested, and operated in a market-oriented manner.

3.197. SOE debts and deficits can be bailed out through various financing mechanisms backed by the Government. In July 2020, China established a credit safeguard fund for central SOEs, with a fundraising target of CNY 100 billion and an initial endowment of CNY 10 billion to provide emergency funding for SOEs to avoid potential defaults. Since then, 11 provincial-level or municipal governments have also set up credit safeguard funds to bail out the default risks of bonds issued by SOEs. No information was available on the filling rate or disbursements of these funds.

3.198. The overall importance of SOEs in China's economy may affect the functioning of market-oriented policies and practices, with global repercussions. While it has been pointed out by the IMF that SOEs in China may benefit from credits extended by state banks or other forms of financing, implicit guarantees, capital injections, and preferential access to inputs, the authorities object to this statement and indicate that SOEs in China operate under market conditions, with no privileges granted by the Government. In addition, the authorities state that "there is no factual evidence to support claims of implicit guarantees [to SOEs] or preferential access to credit".¹⁷⁶

[...]

4. Trade policies by sector⁸⁵

4.1 Agriculture, forestry, and fisheries

4.2 mining and energy

4.3 manufacturing

[...]

4.3.2 selected subsectors

[...]

4.3.2.1 automobiles, aeronautics, and components

[...]

⁸⁵ P. 106.

4.3.2.2 Machinery, equipment, electronics, and related industries⁸⁶

4.113. China's exports of machinery amounted to over USD 1.4 trillion in 2023, up from less than USD 1.1 trillion in 2019. Imports stood at some USD 750 billion in 2023, up from USD 690 billion in 2019.

4.114. The authorities indicate that the industrial policy for the machinery subsector aims to pursue innovation-driven development; promote the transformation towards an intelligent, green, and service-oriented machinery industry; promote the optimization of industrial structures; improve product quality; improve the utilization rates of resources and energies; and reduce pollutant emissions.

4.115. In 2023, the MIIT and other government agencies adopted a plan for the development of a robotics industry, which aims to make China a global centre of excellence for robotics technology innovation, advanced manufacturing, and integrated applications by 2025. In 2021, the Ministry of Industry and Information Technology, along with other government bodies, formulated the 14th Five-Year Plan for the Development Plan for Robotics Industry. The Plan proposed that by 2025, China will become a global source for robot technology innovation, a cluster for high-end manufacturing, and a new highland for integrated applications.

4.116. The authorities consider the integrated circuit industry as a strategic industry supporting national development and security. The Made in China 2025 Initiative reiterated China's focus on next-generation IT, particularly semiconductors.

4.117. China relies heavily on the imports of high-end integrated circuits. Most demand for semiconductors reflects the country's specialization in the assembly of electronics, as the majority of chips are not actually consumed in China but instead re-exported to other countries in the form of electronic equipment (e.g. phones, TVs, and tablets). During the period under review, major trading partners have imposed export controls on certain semiconductors and related products to China.

4.118. The China Integrated Circuit Industry Investment Fund and sister funds at the provincial and municipal levels are tasked with injecting equity into China's semiconductor industry (Table 3.14). A special tax regime applies to companies producing specific semiconductors.⁶⁹ These measures

⁶⁸ WTO document [G/SCM/N/401/CHN](#), 20 July 2023.

⁶⁹ China offers full corporate income tax exemptions for companies producing integrated circuits at the 28 nm node or lower for a duration of 10 years. Qualifying companies producing integrated circuits at the 65 nm node or lower can benefit from a five-year full tax exemption followed by a 50% reduction in tax rates in the following five years. Viewed at: <https://www.chinatax.gov.cn/eng/c101269/c5160133/content.html>.

have not been notified to the WTO. In August 2020, the State Council issued the Several Policies to Promote High-Quality Development of the Integrated Circuit Industry and Software Industry in the New Era (Guo Fa [2020] No. 8), providing support for the semiconductor industry in terms of finance and taxation, investment and financing, research and development, import and export, and talent.

4.3.2.3 Iron, steel, shipbuilding⁸⁷

4.119. According to the authorities, in 2022, China's crude steel capacity was 1.102 billion tonnes, and the crude steel output was 1.018 billion tonnes; in 2023, the crude steel output of private steel enterprises accounted for about 60% of the national total, while the state-owned enterprises accounted for around 40%, and the top 10 steel enterprises accounted for 41% of the national crude steel output. The industry has several large state-owned groups that are owned via shareholdings by local authorities, provincial governments, and the Central Government.⁷⁰

⁸⁶ P. 134.

⁸⁷ P. 135.

4.120. The Government is cognizant of overcapacity in the steel industry. Efforts to eliminate production overcapacity are still guided by the Opinions on Reducing Overcapacity in the Steel Industry to Achieve Development by Solving Difficulties (Guo Fa [2016] No. 66), which prohibit the building up of new steel capacity. In April 2021, Implementation Measures for Capacity Replacement in the Iron and Steel Industry (Gong Xin Bu Yuan [2021] No. 46) were issued with a view to further scale down iron and steel overcapacity. The objective of one of the measures in China's last subsidy notification is to reduce overcapacity.⁷¹ In January 2022, the MIIT, jointly with the NDRC and the Ministry of Ecology and Environment, issued the Guiding Opinions on Promoting High-Quality Development of the Iron and Steel Sector. These aim at, *inter alia*, strictly limiting the installation of new iron and steel production capacity.

4.121. Other policies supporting the development of the iron and steel industry include the Implementation Measures for Capacity Replacement in the Iron and Steel Industry (Gong Xin Bu Yuan [2021] No. 46) and the Guiding Opinions on Promoting High-Quality Development of the Iron and Steel Sector (Gong Xin Bu Yuan [2022] No. 6).

4.122. The Made in China 2025 Initiative considers shipbuilding as one of its 10 priority sectors. In recent years, the level of ship design and shipbuilding has improved rapidly and China's civil shipbuilding industry has been marked by a trend towards the construction of more "high-end ship" types, such as large cruise ships and LNG carriers.

4.123. China's last subsidy notification does not contain specific figures on subsidies allocated to the shipbuilding industry. It is, however, indicated that shipping enterprises can benefit from an accelerated depreciation of fixed assets.⁷²

4.124. In August 2021, the merger between China's two largest state-owned shipbuilders – the China State Shipbuilding Corp. (CSSC) and the China Shipbuilding Industry Co. (CSIC) – was completed, resulting in the world's biggest shipbuilder.

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