



MMLC Group – China Update

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Business News

11 arrested in smuggled clothing crackdown

Chinese police arrested 11 people and closed down 300 warehouses in a crackdown on the smuggling of clothes in Guangdong. Police claim to have dismantled a smuggling ring in Lufeng City, a southern coastal area of Guangdong province, seizing 140 metric tons of used, foreign clothing which was due to be reprocessed and sold in China. The crackdown, which began in October, led to raids earlier this month, when police confiscated and burned 120 metric tons of clothes. The authorities believe that smugglers are bringing the clothes in from Japan and Korea. It is illegal to sell second hand clothing in China.

Auto sales surge 84% last month

China's passenger-car sales surged 84 percent on September as government stimulus measures and an economic rebound spurred demand. Sales of cars, sport-utility vehicles and multipurpose vehicles climbed to 1.015 million. Car sales also jumped 90 percent in August thanks to a 4 trillion yuan (\$ 586 billion) stimulus package, including support for auto sales, designed to shield China from the worst of the global slowdown.

General Motors Co, the largest overseas automaker in China, more than doubled September sales from a year earlier to 181,148 vehicles. In the first nine months, it sold 1.29 million, surpassing the tally for the whole of 2008. Volkswagen AG boosted nine-month China sales to 1.06 million vehicles, beating the 1.02 million it sold in the whole of 2008.

China's biggest automaker, SAIC Motor Corp, sales were racing ahead, up 47 percent in the first nine months from a year ago.

In January, China's auto market overtook the United States as the world's largest. Analysts said the loose money policies that have propelled the industry are set to continue at least till the end of the year.

All of China's publicly traded domestic car makers are likely to give some outlook for the rest of the year when they report third-quarter results in the next few weeks. But regardless of how they end the year, companies are likely to see their sales growth cool down in 2010.

The strong growth has also turbocharged profits and shares for Chinese automakers, which are required by the Shanghai Stock Exchange to announce if their profits will rise or fall by more than 50 percent in any given period.

Bosch to see double-digit sales growth in China

Bosch Group, the leading German auto technology provider, expects its sales in China to have grown 15 percent this year, driven by strong market demand. With expected sales of 24 billion yuan (\$3.52 billion) in 2009, China is the only market that sees a two-digit growth, while the company's global sales are expected to have fallen by 15 percent this year.

Personal mobility safety products, such as the ESP electronic stability program and ABS antilock braking system, are the major drivers of Bosch's business. By the third quarter of 2009, 1 million ABS products were manufactured in Bosch's Suzhou factory, a new record for a single year production. Encouraged by the market potential for resource-saving and energy-efficient innovations, Bosch would expand its new energy related business in China. By the end of 2009, some 35 engineers will work on powertrain electrification projects, as well as hybrid and electric drives, in United Automotive Electronic System, the company's joint venture with Shanghai Automotive Industry Corp. The number of research and development engineers will soon increase to about 100. In 2009, some 1.5 billion yuan was invested in China, particularly for technologies in powertrain electrification and renewable energies such as wind and solar. Next month, gearboxes for 1.5-mW and 2-mW wind turbines will go into production.

SAIC Motor eyes Indian market entry with GM tie-up

SAIC Motor Corp, the mainland's biggest automaker, is in talks with its partner General Motors to explore new business opportunities that include India. India's Economic Times reported that the Shanghai-based automaker was close to

taking a stake in General Motors India but did not provide further details. The discussions between SAIC and GM were aimed at expanding their ties, including opportunities in India, one of the world's fastest growing auto markets. The US automaker produces Cadillac, Buick and Chevrolet models in Shanghai with SAIC. The partners also manufacture Wuling-brand minivans and pick-up trucks in mainland.

The GM-SAIC partnership is one of the most successful tie-ups between a foreign and local automaker, helping both be dominant players in a market where Volkswagen AG, Toyota Motor, Ford Motor are also competing fiercely. SAIC, the maker of Roewe sedans popular with the young business elite, forecast a more than 70 per cent jump in its net profit in the first nine months, after reporting a 47 per cent rise in vehicle sales. GM sold 55.6 per cent more vehicles in mainland during the period, leading a 34.24 per cent gain of the overall market. The Detroit automaker aimed to outpace the growth of the market again next year.

Ford confirms Geely as preferred bidder for Volvo

China's Geely Automobile has been confirmed as preferred bidder in the ongoing discussions concerning the possible sale of Volvo Car Corporation. Ford would be engaging in more detailed and focused negotiations with Geely, and no final decisions have been made yet, reported the Swedish news agency TT. Ford believes Geely has the potential to be a responsible future owner of Volvo and to take the business forward while preserving its core values and the independence of the Swedish brand. Ford would continue to cooperate with Volvo in several areas after a possible sale, and Ford apparently does not intend to retain a shareholding in Volvo.

Hopu makes first foreign investment

Hopu Investment Management has made its first investment outside of China in an effort to establish itself beyond the domestic market. Hopu acquired a 4.9% stake in Lippo Karawaci, an Indonesian real estate and hospital developer from China Resources, a state-owned conglomerate, for US\$45 million. Lippo builds hospitals that cater to middle class Indonesians seeking better medical services; Hopu thinks this model can be transferred to China. Hopu is a US\$2.5 billion fund founded by Fang Fenglei, a former full-time head of Goldman Sachs' mainland securities joint venture, and Richard Ong, a former investment banking head of Goldman Sachs in Southeast Asia, with backing from Temasek, the Singapore state investment agency, and Goldman Sachs. It has made investments in China Mengniu Dairy and a Chinese iron ore producer.

China levies up to 36% duty on US nylon

The Ministry of Commerce is imposing tariffs of up to 36% on nylon or polycaprolactam from the US, because it is claimed that the imports have damaged the domestic industry, the Wall Street Journal reported. Nylon 6 is used in a number of products including toothbrushes, gun frames and chiffon. The antidumping measure is the latest in a series of trade measures introduced by China.. Importers of nylon 6 will be required to pay a deposit if they purchase the product from foreign companies judged to be selling the product at an unfair price. Companies affected include the US arm of German chemical giant BASF which was levied with a 30.4% duty, and Honeywell Resins & Chemical, a part of Honeywell International, levied with a 36.2% duty.

Longyuan Power Group to list in Hong Kong

China Longyuan Power Group, the country's largest producer of electricity generated by wind power, plans to raise up to US\$1 billion in a Hong Kong initial public offering by the end of 2009. Funds raised will be used to boost

Longyuan's capacity to meet China's demand for renewable energy. Longyuan, part of China Guodian, one of the country's 'Big Five' power generators had a power generating capacity of 3,000 megawatts or about 25% of China's wind power capacity. The company plans to boost its capacity to 6,000 megawatts by 2010 and to 20,000 megawatts by 2020.

China's economic recovery to pick up momentum in 2010

China's economy has passed the worst and recovery will pick up momentum next year, according to a prominent Chinese economist—Yao Jingyuan. Yao Jingyuan, chief economist at the National Bureau of Statistics, identified November 2008 to February 2009 as the trough for the recession. But he believed that China's current economic recovery is gaining speed, which will set the stage for faster growth in 2010. China's GDP is expected to grow by about 8.3 percent year-on-year for 2009, according to a report released earlier by the Chinese Academy of Social Sciences.

China starts anti-dumping probe into X-ray equipment from EU

The Ministry of Commerce (MOC) had started anti-dumping investigation into X-ray security inspection facilities imported from the European Union (EU). The MOC received the probe application filed by the Nuctech Company Ltd, China's leading inspection equipment maker, on Aug 28, 2008. The ministry decided to start the investigation after examination.

Coca-Cola sets up new bottling plant

Soon after US beverage giant Coca-Cola officially announced its entrance into China's dairy beverage market, the company soon followed with a remarkable expansion of its largest single investment

for strengthening its still beverage business in China. With a total investment of 600 million yuan (\$87.89 million), Coca-Cola opened a bottling plant in Wuhan, capital of Hubei province, which will be operated by the most advanced still beverages producing technology in the Coca-Cola system globally.

It is the 39th facility to bottle Coca-Cola's products across China, and the 10th opened bottling plant for manufacturing Coke's still beverage products, with annual production capacity of 45 million unit cases of Coke's still beverage products (which is equal to 1 billion bottles of beverages), according to the company. With the expansion of still beverages manufacturing capacity at the Wuhan plant, Coca-Cola would achieve the annual still beverages production capacity of 300 million unit cases by this year, an increase of 80 million unit cases compared with previous years.

The world's leading beverage giant has already built up a strong network for manufacturing its still beverage products in 11 cities across China, including Beijing, Shanghai, Xiamen in Fujian province and Dongguan in Guangdong province, as well as the newly opened facility in Wuhan. The Wuhan bottling plant will be used to produce bottled water, tea and fruit juice beverages, as well as the newly launched juicy dairy beverages. An unnamed industry insider commented that the newly established plant was a signal of Coca-Cola's expectation to drive further business growth in China's still beverage market after its failed bid to buy the Huiyuan group.

Ex-Gome's chair faces insider trading

Huang Guangyu, once China's richest man and a home appliance tycoon, is likely to be charged with insider trading (according to local contacts), which carries a maximum penalty of 10 years in jail. Huang, 40, former chairman of Gome Electrical Appliances Holdings, was detained on Nov 24 last year on claims he manipulated share trading for two listed companies, Sanlian Commercial Co and Beijing Centergate

Technologies Co. The Beijing People's Procuratorate has twice sent Huang's case back to police asking for further investigation. The first time the case was sent back, prosecutors asked for more "specific manipulating measures of insider trading". The case was sent back a second time because of "insufficient evidence". Unless a higher procuratorate permits a longer investigation, Huang will have to be prosecuted within a month and a half. Insider trading refers to illegal profits in stock and securities trading by using or giving away confidential insider information that has not yet been made public. This allows the person to buy or sell a stock before news affects the price of the security. Someone acting as an individual faces a maximum of 10 years in prison. Someone acting as a legal representative of a company faces at most five years in prison. Huang's lawyer says that Huang should be treated as a legal representative of Gome group.

Experts beware yuan rise as hot money risk brews

Chinese exporters should brace themselves for a steady rise in the value of the yuan while the steep hiking of asset prices looks set to continue, say analysts studying the movements of "hot money." Although the value of the yuan, China's currency, has hovered at around 6.83 to the US dollar for the past several months, analysts say the rush of international short-term speculative funds has already begun with China's economy showing signs of improvement. The country saw a massive exodus of hot money because of the global financial crisis in the fourth quarter of last year and the first quarter of this year. From the second quarter, the situation reversed with an influx of hot money. No official figures concerning hot money have been released, but analysts have compiled a scratchy picture from the unusual coincidence of China's increasing foreign exchange

reserves and declining trade surplus and reduced expenditure of foreign investment in China.

Mainland firms invest US\$20.5b overseas

Cashed-up mainland firms have almost doubled their spending on overseas assets, investing US\$20.47 billion between July and September. Mainland outbound investments jumped 190.4 per cent in the quarter from the same period last year, taking the total for the year to US\$32.87 billion. Much of the growth was attributed to government incentives. Some economists said mainland investors had seen their confidence restored compared with the third quarter last year when the global financial crisis struck. Mainland firms, particularly deep-pocketed state-owned ones, snapped up mineral and mining assets and manufacturing companies across 112 countries in the first nine months, during which about 43 per cent of the total investments were direct. However, the investments excluded acquisitions in the financial sector. One of the largest deals cut last quarter was Yanzhou Coal Mining (SEHK: [1171](#))'s US\$2.9 billion acquisition of Australian counterpart Felix Resources in August, which won Australian government approval last week. The mainland's largest steel producer, Baosteel, agreed to pay A\$286 million (HK\$2.04 billion) for a 15 per cent stake in Australian iron ore explorer Aquila Resources in August.

Mutual funds make beeline to ChiNext

Chinese mutual fund companies have swarmed into the country's newly launched growth enterprise board, or ChiNext, eyeing potentially quick profits even as the mutual funds industry itself reported \$8 billion in losses during the third quarter. The 28 companies, which start trading on ChiNext, have so far attracted investments from 217 mutual funds in the new share subscription process for institutional investors, according to data from Shanghai-based Wind Info. Filmmaker Huayi Brothers and Aire Eye Hospital Group are the two most popular ChiNext-listed companies that have absorbed investments from 105 and 104

funds respectively. ICBC Credit Suisse Enhanced Income Fund holds the most shares in 23 ChiNext companies. According to Wind Info, each ChiNext company, on average, has attracted investments from 33.82 funds. But the investments by mutual funds have not been evenly distributed, with more than 54 percent of Sichuan Jifeng Agricultural Machinery Chain Co's shares held by funds while the figure is just 2 percent for Shanghai Bestway Marine Engineering Design Co. China's mutual funds industry posted a loss of \$8 billion in the third quarter, mainly hit by a 6-percent quarterly downside in the country's stock market. The industry has reduced holdings in the stock market by 3.31 percentage points to 80.15 percent during the third quarter.

Chinese group buys 13% of NZ farming supplier

China's seed and agriculture researcher Agria Corp. is to buy a 13 percent stake in New Zealand's largest rural services business, PGG Wrightson, with the aim of becoming a cornerstone shareholder, the companies said recently.

The two companies signed an agreement for Agria to invest NZ\$36 million (US\$27 million) in PGG Wrightson through a share placement and to form a strategic partnership. Agria's investment was conditional on it being satisfied that sufficient funds would be raised through equity raising and other sources for PGG Wrightson to repay a \$149 million debt facility by March 31. The partnership of the companies would cooperate on development and international commercialization of seed cultivars, development of livestock demand in China, exports of livestock from New Zealand, Australia, South America and other markets, and on establishing livestock trading systems in China using PGG Wrightson's auction expertise. PGG Wrightson, with annual turnover of \$968

million, was formed in 2005 from the merger of long-established Pyne Gould Guinness and Wrightson. It also operates in Australia and South America. Its shares jumped 15c to NZ\$0.8000 (US\$0.5960) following the Agria announcement. In its latest financial results, Agria reported total revenues of US\$47 million for the nine months ended September 30. Its share price closed 3c higher at US\$2.19 in the latest NYSE session.

Shanghai Electric to help build Vietnam power plant

Chinese Shanghai Electric Group signed an engineering, procurement, and construction (EPC) contract with Electricity of Vietnam Friday in Hanoi to help it build a thermal power plant.

Under the contract, the Shanghai Electric Group will conduct the designs, construction, installation and equipment supply for the Vinh Tan thermal power plant in Vietnamese northern province of Binh Thuan. The contract is valued at \$1.3 billion.

The Vinh Tan thermal power plant is expected to provide between 7.5 and 8 billion kWh of electricity a year. The plant is an important project, which would help meet the country's demand for electricity in the coming years. The plant is scheduled to be put into operation in 2013. The Export-Import Bank of China will provide a preferential loan for building the plant.

Sinopec to start huge ethylene project in Zhenhai

Sinopec plans to start a 1-million-ton-per-year ethylene complex in Zhejiang province by the end of the first quarter of 2010 at the earliest. The project is located in Zhenhai in the city limits of Ningbo. It is linked with a refinery in Zhenhai, now the biggest one under Sinopec's ownership. Sinopec, Asia's largest refiner, aims to eventually double the capacity of Zhenhai ethylene complex to 2 million tons per year, making it one of the world's biggest. Construction of the project will be completed by the end of this year. It is scheduled to start operation at the end of the first quarter of 2010 or early in the second quarter.

Construction of the project is in line with China's stimulus package for its petrochemical industry. Under the plan, China will build three or four oil refining bases in the Yangtze River Delta, Pearl River Delta, and Bohai Sea-rim economic zone. The oil refining bases will have a minimum refining capacity of 20 million tons each. Together with the refining facilities, three or four ethylene projects with annual production capacities of 2 million tons each will also be built.

Recently, Sinopec and German chemical maker BASF announced they would jointly invest \$1.4 billion to expand their joint venture in Nanjing in Jiangsu province. The project included expansion of an existing steam cracker, under which its capacity will be increased to 740,000 metric tons a year from 600,000 tons. A steam cracker is a facility to produce ethylene. The expanded project will produce downstream specialty chemicals for the Chinese market, serving multiple industries such as construction, electronics, pharmaceuticals, automotive and chemical manufacturing, the two companies said in a joint statement.

Wuxi is ready to become a 'little India'

Wuxi, a picturesque city that lies along the Taihu Lake area, is planning to build a "little India" in years to come. Wuxi is traditionally a manufacturing city. But with more focus on environmental protection, especially after a serious blue-green algae outbreak in Taihu Lake that triggered a clean water crisis in mid-2007, city leaders started to study how to transform the city's development. Wuxi decided to replace manufacturing with the service outsourcing industry, which has far less pollution and consumes much less energy. According to its ambitious development plan, the city is expected to attract \$30 billion to \$40 billion in service outsourcing business and help create service outsourcing jobs for 1 million people by 2020 - equivalent to that of India as a whole in 2007. The

advancement of the service outsourcing industry cannot survive without a large talent pool. But the city three years ago learned that fewer than 2,000 students in the city were studying software and information technology fields. As a result, Wuxi established a goal to build a total area of 6 million sq m for software service outsourcing within three years, and encouraged enterprises to cultivate and import skilled workers.

This year, the Wuxi government launched a new program to train university graduates. Outsourcing companies will receive a rebate of 4,000 yuan (\$586) for hiring a graduate, and every graduate of the training program will receive 1,000 yuan as a subsidy. The city's financial sector is also actively providing financial support to enterprises in the service outsourcing industry. So far, Wuxi has attracted 22 investment projects from leading multinational service outsourcing corporations and 50 domestic industry heavyweights. Half of China's top 10 industry heavyweights have established headquarters in Wuxi.

Legal News

BAIC employee accused of stealing trade secrets from Ford

Beijing Automotive Industry Holdings Co (BAIC) has come out in defence of its internal business conduct rules following the leveling of announcement that one of its employees has been charged with allegedly stealing trade secrets from US automaker, Ford. The employee Yu Xiangdong, also known as Mike Yu, is alleged to have copied 4,000 documents when leaving Ford in 2007, where he was a product engineer. Court papers say he used the documents to try to gain employment with Shanghai Automotive Industry Corp. – he then obtained employment with BAIC. There was no indication of whether Yu had tried to sell the documents to BAIC. Trade secret theft can lead to criminal penalties and significant compensation orders under Chinese law – indeed, it is one part of intellectual property that is taken extremely seriously by all in China.

China Mobile Settles Anti-Monopoly Lawsuit With Beijing Lawyer

China Mobile Communications Corp., owner of the world's biggest phone company by subscribers, has settled one of China's first private anti-monopoly actions – it was filed by a customer alleging the carrier abused its dominant market position to obtain greater fees from customers.

Zhou Ze, a lawyer with the Beijing Wentian Law Firm who sued China Mobile under the nation's new anti-monopoly law, said that the company agreed to pay him 1,000 yuan (\$146) to settle this case. He had originally asked for 1,200 yuan for the two years worth of 50 yuan monthly fees he was charged. China Mobile's lawyer, Xue Junfu, of the Beijing Jinde Law Firm said the payment was acknowledging the company's gratitude for Zhou's suggestions, not a reimbursement or admission of guilt.

China Mobile, which had 508.4 million subscribers at the end of September, cut call fees and raised handset subsidies to attract 15.24 million users in the third quarter as it expanded in lower-income rural areas to fend off mounting competition from China Telecom Corp. and China Unicom (Hong Kong) Ltd.

In a separate case on October 23, Shanghai's No. 1 Intermediate People's Court dismissed an abuse of dominance case filed by Beijing Sursen Electronic Technology Co. Ltd. against Shanda Interactive Entertainment Ltd. and Shanghai Xuanting Entertainment Information Technology Ltd.. The court rejected a claim from online digital book Web site operator Beijing Sursen that Shanda and Shanghai Xuanting had unlawfully forced two authors to stop writing a sequel to a novel series originally published by the defendants.

Government launches survey on rescue plan

A third attempt by the government to introduce United States Chapter 11-style bankruptcy protection in Hong Kong is likely to face opposition from legislators and accountants, who still have doubts about the proposal.

The government released a consultation paper on its revised draft of the Corporate Rescue Bill that aims to give troubled companies a six-month breathing space to restructure or find a white knight, during which no single creditor could apply for a winding-up order.

If the three-month consultation receives a positive response, the government will set about bringing an end to one of the longest debates on law changes, with a bill to be tabled by the end of next year or early 2011, according to John Leung Chi-yan, the deputy secretary for Financial Services and the Treasury.

The Law Reform Commission first proposed a corporate rescue procedure in 1996 and the government submitted its first draft to the Legislative Council in 2000, but it failed to win support from accountants, lawyers and the business community, who were against requiring firms to pay all employee wages and entitlements in full before they could begin seeking a rescue plan. In 2003, the government added a HK\$270,000 cap on the pay-outs, but this was rejected, too.

The current global financial crisis points to this being the right time to reconsider introducing bankruptcy protection in Hong Kong. A new proposal to address the key issue of payments to employees suggests giving companies a 60-day grace period in which to give each employee up to HK\$36,000 of unpaid wages. If a rescue plan is later approved, then the company would have a year to pay any outstanding amounts. If no rescue plan emerges, employees could claim money from the Protection of Wages on Insolvency Fund for a maximum of HK\$36,000.

Chinese copyright society says Google Books scanned 17,922 works without authorization

Google is in trouble with China again, this time over the alleged scanning of books for the online giant's library without authorisation. The China Written Works Copyright Society made the accusation in the latest criticism hurled at the controversial project. Its data showed at least 17,922 books had been scanned and included in Google Books, the project to digitise millions of books and post them online. Society deputy considered that Google has violated a widely accepted international copyright rule that any scanning, collecting and using of protected works should obtain permission and pay a fee before use. The society is a body tasked by the central government with collecting information on copyrights involving written material. The books involved the works of at least 570 Chinese writers, including government officials and prominent academics; none of the writers received any notice from Google for the usage of their works.

Google Books has faced copyright criticism worldwide. Google and US authors and publishers reached a settlement last year over a copyright infringement suit filed against Google in 2005. Under the settlement, Google agreed to pay US\$125 million to resolve outstanding claims and establish an independent "book rights registry", which would provide revenue from sales and advertising to authors and publishers who agreed to digitise their books. But it has met opposition on copyright and anti-trust grounds from rival technology companies, privacy advocates, consumer groups and the United States Justice Department, which asked a US judge to bring the parties back to the table. The German and French governments have also filed objections to the settlement, which the US judge has ordered revised by November 9.

Google has been in trouble with the central government since last year. The company was accused of providing links to pornography in its Web searches, a violation of Chinese law. Some Google services, such as Google Docs, have been blocked on the mainland before, and Google-owned YouTube still is not accessible in China.

This update is aimed at keeping our clients informed of developments in Greater China. Whilst every care has been taken to ensure the accuracy of this update, it should not be relied upon before individual advice is obtained. The MMLC Group is an international legal and corporate advisory group.

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