India

1Bilateral trade relations

According to the China Customs, the bilateral trade volume between China and India in 2006 reached US＄24.86 billion, up by 32.9%, among which China s export to India was US＄14.58 billion, up by 63.2%, and China s import from India was US ＄10.28 billion, up by 5.2%. China had a surplus of US＄4.3 billion. China mainly exported to India electrical machines, organic chemicals, mineral fuel, mineral oil and products thereof, mulberry raw silk, special woven fabric, and etc. China mainly imported from India ore, steel, iron, organic chemicals, plastics and plastic products, jewelry, cotton, and etc.

According to the Ministry of Commerce(hereinafter referred to as MOFCOM), by the end of 2006, the turnover of completed engineering contracts by the Chinese companies in India reached US＄ 2.02 billion in 2006, and the volume of completed labor service cooperation contracts was US＄20.7 million.

According to MOFCOM, in 2006, the amount of foreign direct investment in India by Chinese funded non financial enterprises, approved by or put on record in MOFCOM, reached US＄2.38 million. Indian investors invested in 60 projects in China in 2006, with a total contractual investment of US＄130 million and an actual utilization of ＄52.39 million.

2Trade and investment regime

2.1Trade administration and its development

The government of India administers trade mainly according to the Foreign Trade(Development and Regulation) Act, 1992 and the Foreign Trade(Regulation) Rules, 1993.

2.1.1Tariff system

Laws governing Customs and customs administration mainly include the Customs Act, 1962 and the Customs Tariff Act, 1975. The Customs Act, 1962 is one of the major laws of India governing its import and export tariff and regulating its customs valuation. The Customs Tariff Act, 1975 stipulates in detail customs classification, applicable tariff rates and specific tariff collection measures.

Most tariffs in India are ad valorem duties. The Ministry of Finance of India adjusts the tariff rates every year in its annual budget. In the Budget 2006—2007, some tariff peaks have been reduced, and adjustments have been made to import duty on certain

products.

2.1.1.1Reduction of import tariff peak

In the 2006—2007 fiscal year, the average tariff of India for non agricultural products has been reduced to 12.5%. With a few exceptions, the tariff peak for non agricultural products is lowered from 15% to 12.5%. The ad valorem duty on textile, fabric and garment is lowered from 15% to 12.5%.

2.1.1.2Product enjoying lower import duties

Import duties on most products have been reduced. Import duty on all man made fibers and yarns is reduced from 15% to 10%, and on alloy steel, stainless steel and other alloy from 10% to 7.5%. Import duty on marble, granite, cement and asbestos is reduced from 15% to 12.5%, while on the other mineral products from 15% to 5%. Duty on inorganic chemicals is reduced from 15% to 10%.

Tariff rates for 10 anti AIDS drugs, 14 anti cancer drugs, 4 life saving drugs, and 3 medical kits and equipment are reduced to 5%. These drugs are also exempt from excise duty and surtax.

Duty on natural gas and petroleum products is reduced from10% to 5%, among which duty on petroleum products is reduced from 15% to 10%. Customs duty on naphtha, natural gas, propane and butanes falling under heading 2，711 is being reduced from 10% to 5%.

Customs duty on non edible grade oils(other than crude palm oil), falling under 1，507 to 1，515, having 20% FFA when imported for manufacture of soaps, industrial fatty acids and fatty alcohols by a manufacture having a plant for splitting up of such oils into fatty acids and glycerols, is being reduced from 20% to 12.5% In addition, duty on imported palm oil is also reduced from 80% to 70%.

2.1.1.3Products subject to higher import duties

A few products are subject to increased import duties. Duty on natural honey is raised from 30% to 60% Vegetable oils and their fractions, partly or wholly hydrogenated, inter esterified,elaidinised(whether or not refined but not further prepared)(including vanaspati, bakery shortening, etc.) falling under 1516 20 is being increased from 30% to 80%.

2.1.1.4Tariff concessions under the Asia Pacific Trade Agreement

To carry out the third round of tariff concessions under the Asia Pacific Trade Agreement, China has reduced tariffs on products under over 1700 tariff headings from India and four other countries since September 1, 2006. Likewise, certain chemical products, wooden articles, plastic products, leather, textiles, metal products,

and machinery and electronics of Chinese origin can enjoy preferential tariff rates when exported to these five countries.

2.1.2Import administration

The Foreign Trade Policy 2004—2009 is the major policy governing foreign trade in India. Since it took effect in September 2004, the Ministry of Commerce and Industry has revised the policy every year to adjust its foreign trade policy and strengthen administration of foreign trade. In April 2006, the Indian government made another amendment and updating to the Foreign Trade Policy 2004—2009, and used it as its foreign trade policy in 2006—2007. This trade policy has prescribed detailed rules in the areas of general provisions on imports and exports, incentive measures, tax exemption programs, capital goods export promotion schemes, Export Oriented Unit(EOU) schemes, Electronic Hardware Technology Park(EHTP) schemes, Software Technology Park(STP) schemes or Bio Technology Park(BTP) schemes, special economic zones, free trade zones and bonded warehouses, and deemed exports.

Generally speaking, no restriction is imposed on the exportation and importation of most products except those restricted and prohibited by ITC(HS). However, according to the special rules on importation of capital goods contained in the adjusted trade policy, all second hand products except second hand capital goods shall be subject to licenses, certificates, permits, or authorization for import. For instance, second hand personal computers and laptops, photocopiers, air conditioners, diesel generators, and re manufactured goods will only be allowed for import against licenses. However, import of refurbished or re conditioned spare parts is free from control.

2.1.3Export administration

2.1.3.1Export ban

India announced in July 2006 to ban the exportation of sugar, lentil and wheat.

2.1.3.2Removal of export duty on agricultural and sea products

In May 2006, the Parliament of India passed a bill to remove export duty on agricultural and sea products, covering coffee, tobacco, fragrance and flavor material, flowers, fruits, vegetables, Indian scented rice or Basmati scented rice, animal products, processed agricultural products, and sea products. This measure will lower export price of pertinent agricultural and sea products by 0.5%.

2.1.3.3Export incentive policy

The newly revised trade policy has continued to provide incentives in 2006 to the export of products from sectors that India traditionally enjoys competitiveness, such as agriculture, handicraft industry, handloom, jade, jewellery, leather and shoe making.

The Indian government has also stipulated various incentive measures such as import and export promotion schemes and tax reduction or exemption to promote exports by export oriented enterprises, special economic zones and software technology parks. For instance, the Special Economic Zones Act 2005 came into force as of February 10, 2006, providing one stop services and preferential policies to exporters located in special zones.

Special agencies have been set up in order to promote export. There are 11 export promotion councils established under the Ministry of Commerce and Industry, each responsible for the promotion of a particular group of products, projects and services, and 9 established under the Ministry of Textile, responsible for exploring overseas markets and promoting textile exports. Specific measures include:

1) Market Access Initiative(MAI) Scheme

MAI scheme is intended to provide financial assistance for medium term export promotion efforts with a focus on a country and product, such as market studies, setting up showroom or warehouse, sales promotion campaigns, international departmental stores, participation in international trade fairs, brand promotion, registration for pharmaceuticals and testing for engineering projects. Each of these activities can receive financial assistance from the government ranging from 25% to 100% of total cost.

2) Market Development Assistance(MDA) Scheme

MDA scheme is intended to provide financial assistance for a range of export promotion activities implemented by export promotion councils, and industry and trade associations on a regular basis every year. Assistance under MDA is available for exporters with annual export turnover up to Rs 10 crores(approximately US＄2.22 million). These include participation in trade fairs, buyer seller meetings aboard, export promotion seminars, and etc.

3) Duty Free Replenishment Certificate(DFRC)

DFRC is a part of India s duty drawback schemes. It is issued to a merchant exporter or export producer for the importation of inputs to be used in the manufacture of export goods without payment of basic customs duty and special surtax. However, such inputs shall be subject to the payment of additional customs duty equal to the excise duty at the time of importation. DFRC can bring a minimum of 25% tax remission benefits to exporters except for certain gems and jewellery and high value added products. DFRC shall be issued only to eligible products determined by the Directorate General of Foreign Trade(DGFT) according to established criteria. DFRC scheme shall be available to exports up to April 30, 2006, no matter whether their raw materials are imported or homemade.

4) Duty Free Import Authorization

Except for the products excluded by the DGFT in the form of Public Notice, India has started to issue duty free import authorization since May 1, 2006 to allow duty free importation of inputs which are to be used in the manufacture of export product(making normal allowance for wastage), and fuel, energy, catalyst, and etc. which are consumed or utilized in the course of manufacture to obtain the export product. The Authorization shall be issued to products and enterprises identified by DGFT on the basis of Standard Input and Output Norms(SION). The import entitled to the Authorization shall be limited to the quantity indicated in the SION. Prohibited items shall not be imported and shall not enjoy the duty free import authorization.

2.1.4Trade remedies

The Customs Tariff Act, 1975 has been amended to prescribe provisions on safeguard measures. The Customs Tariff(Identification and Assessment of Safeguard Duty) Rules, 1997 and the Customs Tariff(Transitional Product Specific Safeguard Duty) Rules, 2002 have specified procedural aspects of safeguard measures. Section 9, 9A and 9B of the Customs Tariff Act, 1975 as well as the Customs Tariff(Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 constitute the legal basis for anti dumping investigations and the imposition of anti dumping duties. The Directorate General of Anti dumping and Allied Duties(DGAD) under the Ministry of Commerce and Industry is in charge of anti dumping investigations.

2.2Investment administration and its development

Governing laws on foreign investment in India include the Reserve Bank of India Act, 1934, Industrial Policy, 1991, the Foreign Exchange Management Act, 1999, the Companies Act, 1956, and the Income Tax Act, 1961. In addition, other regulations have prescribed detailed provisions governing foreign exchange management, such as the Foreign Exchange Management(Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000, the Foreign Exchange Management(Establishment in India of branch or office or other place of business) Regulations, 2000, and the Foreign Exchange Management(Insurance) Regulations, 2000. There exist two procedures for approving foreign direct investment in India, automatic approval and government examination and approval. The Indian government authorizes the Reserve Bank of India(RBI) to handle foreign investment eligible for automatic approval in accordance with the automatic approval procedure. Other foreign investment projects subject to government examination and approval are reviewed by the government upon the recommendation of the Foreign Investment Promotion Board(FIPB).

2.2.1Current Foreign Direct Investment policy

2.2.1.1Sectors prohibited for foreign direct investment

India adjusted its policy to foreign direct investment in 2006. Sectors prohibited for foreign investment has been reduced compared with 2005, including only retail trade(except Single Brand Product retailing), nuclear industry, gambling and betting, and lottery business.

2.2.1.2Sectors subject to prior government approval

Foreign investment in the following circumstances requires prior government approval: projects stipulated in Press Note 1(2005 series); and where more than 24% foreign equity is proposed to be inducted into items reserved for small and medium sized enterprises.

2.2.1.3Requirements for foreign investment sensitive sectors

Annex to Press Note 4(2006 series) has listed requirements for foreign investment in the following sensitive sectors: broadcasting, banking, aviation, national defense, insurance, investment, telecommunications, and etc. In addition to cap on foreign equities, there are also special requirements for approval procedures and industrial licenses.

2.2.1.4Solely foreign funded projects on automatic route

In sectors not listed in Press Note 4(2006 series), foreign direct investment is permitted up to 100% on the automatic route subject to sectoral rules or regulations applicable.

2.2.2Major measures to attract foreign capital

India has made great efforts to attract foreign investment in recent years by easing up examination and approval procedures. The Foreign Investment Promotion Board(FIPB) issue public notices to explain new investment polices or clarify previous polices.

2.2.2.1Press Notes on Foreign Direct Investment Policy 2006 and clarification

Since enlarging foreign investment proportion in private banks and telecommunications in 2005, the government of India has publicized Press Notes on Foreign Direct Investment Policy 2006 No.1 to No.4, further easing the policies regarding foreign investment. In July 2006, India made further clarification on Press Note 4(2006 series).

2.2.2.1.1Press Note 1(2006 series)

Press Note 1(2006 series) issued in January 2006 has prescribed rules on foreign direct investment in Up linking TV Channels. Foreign investment up to 49% is permitted for setting up hardware, Up linking TV channels, HUB, and etc., subject

to the Broadcasting Laws and Regulations and relevant rules.

The Indian government decided to allow foreign investment in the Up linking of TV Channels in December 2005. To be specific, a) Foreign investment up to 49% would be permitted with prior approval of the government for setting up Up linking HUB/Teleports; b) Foreign investment up to 100% would be allowed with prior approval of the government for Up linking a Non news and Current Affairs TV Channel; c) Foreign investment(including investment by Foreign Institutional Investors(FIIs)) up to 26% would be permitted with prior approval of the government for Up linking a News and Current Affairs TV Channel.

2.2.2.1.2Press Note 2(2006 series)

The Indian government publicized on January 1, 2006 Press Note 2(2006 series), a clarification of Press Note 2(2005 series) regarding foreign investment in townships, housing, built up infrastructure and construction development projects. Press Note 2(2005 series) allows foreign investment up to 100% in hotel and tourism sector under the automatic route. It is clarified that Press Note 2(2005 series) shall not apply to Special Economic Zones; neither shall it apply to establishment and operation of hotels and hospitals which shall continue to be governed by Press Note 4(2001 Series) and Press Note 2(2000 series) respectively. Regulations on Special Economic Zones are contained in Special Economic Zone Act 2005.

2.2.2.1.3Press Note 3(2006 series)

Guidelines for Foreign Direct Investment in Retail Trade of “Single Brand” Products are stated in Press Note 3(2006 series) in February 2006. Foreign investment up to 51% is allowed with prior government approval in retail trade of “Single Brand” products which would be subject to the following conditions: products to be sold should be of a “Single Brand” only; products should be sold under the same brand internationally; “Single Brand” product retailing would cover only products which are branded during manufacturing.

2.2.2.1.4Press Note 4(2006 series)

Foreign direct investment policy was further reviewed in Press Note 4(2006 series) issued in February 2006. The provisions on foreign direct investment are as follows:

a) To permit under the automatic route foreign direct investment up to 100% for: distillation and brewing of potable alcohol; manufacture of industrial explosives; manufacture of hazardous chemicals; manufacturing activities located within 25 kms of the Standard Urban Area limits which require Industrial License under the Industrial(Development and Regulation) Act 1951; setting up Greenfield airport projects; laying of Natural Gas or LNG pipelines, market study and formulation and investment financing in the petroleum and natural gas sector; cash and carry wholesale trading and export trading; power trading subject to compliance with

Regulations under the Electricity Act 2003; and processing and warehousing of coffee and rubber.

b) To increase foreign direct investment caps to 100% and permit it under the automatic route for: coal and lignite mining for captive consumption; setting up infrastructure relating to marketing in Petroleum and Natural Gas sector; and exploration and mining of diamonds and precious stones.

c) To allow under automatic route non residents acquisition of shares in a company held by Indian residents, subject to sectoral policy on foreign direct investment.

2.2.2.1.5Clarification on Press Note 4(2006 series)

On July 12, 2006, the Ministry of Commerce and Industry made a clarification to its policy on foreign direct investment in agriculture and real estate outlined in Press Note 4(2006 series).

a) Foreign investment up to 100% is permitted under the automatic route in the under mentioned activities: floriculture, horticulture, development of seeds; animal husbandry; pisciculture; aqua culture; cultivation of vegetables; mushrooms under controlled conditions and services related to agro and allied sectors.

b) Foreign investment up to 100% with prior government approval is permitted in tea plantation subject to the conditions of divestment of 26% equity of the company in favor of an Indian partner and Indian citizen within a period of five years; and prior approval of the State Government concerned in case of any future land use change.

c) Except the above two, foreign investment is not allowed in any other agricultural sector or activity.

2.2.2.2Items reserved for small scale industries(SSI)

The Indian government attaches great importance to the protection of small scale industries by reserving items for them. Enterprises with over 24% foreign equities shall obtain prior government approval before entering into these items. In March 2006, 69 new items were added, covering the sectors of planting and machinery, involving an amount of US＄220,000 to US＄1.1 million. Together with the existing 71 items, there are now 140 items reserved for SSI.

2.3Trade and investment related administration and its development

2.3.1The Plant Quarantine Order, 2006

In 2006, the Ministry of Agriculture successively promulgated four Plant Quarantine Orders, 2006, seeking to further rationalize the provisions regarding the importation of certain plants and plant products into India for which country specific,

commodity specific and item specific pest risk analysis has been undertaken. This will help increase the import of plants and plant materials which till date are not permitted under the aforesaid Order. The new list of plants and plant materials includes 18 new items under Schedule VI and VII of the Order.

2.3.2Prevention of Food Adulteration Rules(PFA) 2006

From January to December in 2006, the Indian government made several amendments to the Prevention of Food Adulteration Rules, including amendment to clause(i) of Rule 32 to exempt wines and liquors and alcoholic beverages containing 10% or more by volume of alcohol from declaration of best before date for consumption. The government also specified the definitions and standards of quality with respect to spices and condiments, and revised the use of some food additives, maximum limits of aflatoxin and metallic contaminants in certain food items including use of wax for coating on fruits. Manufacturers of food and soft drinks shall declare on the package the name of ingredients that exceed 2% of the product s weight or volume(including vitamin and mineral) in respect of their composition by weight or volume, as the case may be. Any food containing any allergenic and/or hypersensitive ingredients such as egg and peanut shall bear warnings on package. Tobacco and nicotine shall not be used as ingredients in any food products. Every non fruit product shall be mentioned in clear, conspicuous and easily readable manner, marked on the label as "NON FRUIT PRODUCT", and the container containing such product shall not have pictures of fruits. The Rules shall come into force on August 20, 2007.

2.3.3Prohibiting import of livestock and their products from HPAI countries

The Ministry of Agriculture has decided that beginning from August 3, 2006, for a period of six months, relevant products from Highly Pathogenic Avian Influenza(HPAI) countries are prohibited to be imported, including domestic and wild birds including captive birds(excluding poultry); unprocessed meat and meat products from avian species including wild birds; semen of domestic and wild birds; live poultry; one day old chicks, ducks, turkey and other newly hatched avian species; meat and meat products from avian species including wild birds; hatching eggs; eggs and egg products; feathers; live pigs and pig meat products; pathological material and biological products from birds; products of animal origin intended for use in animal feeding or for agricultural or industrial use.

2.3.4Draft guidelines on imports and exports of biological control agents

The draft guidelines promulgated by the Ministry of Agriculture on July 18, 2006 have prescribed the detailed requirements and procedures for importation and exportation of biological control agents and other beneficial organisms. The purpose of these guidelines is to facilitate scientific research and commercial use of biological control agents and beneficial organisms, with a view to minimizing the possible adverse effects on human health and environment. The guidelines took effect on October 30, 2006.

2.3.5The Drugs(Prices Control) Amendment Order 2006

On December 7, 2006, the Department of Chemicals and Petrochemicals under the Ministry of Chemicals and Fertilizers promulgated the Drugs(Prices Control) Amendment Order 2006, in which definitions of Maximum Retail Price(MRP) inclusive of all taxes and the mandatory labelling requirements of MRP for all medicines are prescribed. This amendment has become effective on domestic drugs since October 2, 2006, and will become effective on imported drugs as of March 1, 2007.

2.3.6Visa procedure

In October 2006, the Indian government revised the examination and approval procedures for business and working visa application from Chinese nationals, and shortened the duration of workflow from three months to two weeks. The simplification of visa procedures helps Chinese technicians to work in India. However, issuance of visa to technical personnel is still subject to security inspection and verification of technical qualification and professional background to ensure that the work they perform in India is beyond the ability of local Indian technicians.

2.4Regulations on specific products

2.4.1Packaging and labeling requirements for tobacco products

The Ministry of Health and Family Welfare formulated packaging and labeling rules for tobacco products in August 2006. It is stipulated in the rules that health warnings shall be required for tobacco products. At least 50% of package areas or major display areas shall contain clear health warnings. The place and direction of warnings in various shapes of tobacco package are also prescribed. Tobacco without health warnings is forbidden for sale. Health warnings shall appear on all retail packages and outer packages. The language of health warnings shall be the same as that on the package, and two languages or more are not allowed on package. This rule came into force on February 1, 2007.

2.4.2Drugs and Cosmetics Rules

The Indian government revised the Drugs and Cosmetics Rules 1945 in October 2006, and renamed it as the Drugs and Cosmetics Rules 2006. Good Laboratory Practices(GLP) is added to the new Rules.

3Barriers to trade

3.1Tariff and tariff administration

3.1.1Tariff peak

The Indian government lowered the import duty on a considerable number of products in 2006, but its overall tariff rate is still at a fairly high level. Tariff peak for agricultural products is particularly noteworthy. In addition, India imposes high import duty on petroleum products, cars, motorcycles, and finished steel products. The tariff rate for imported motorcycles is as high as 100%.

The tariff rates for agricultural products remain high according to the Customs Tariff, 2006—2007 issued by the Ministry of Finance. The import duty on instant coffee, tea, roasted chicory, other roasted coffee substitutes, food preparations such as yeast, soy sauce, tomato sauce, and chilly sauce, mineral waters, aerated waters and Soya milk drinks is 30%. The import duty on durum wheat and wheat of seed quality is 100%, on rice, grain sorghum, palm oil, and palm oil concentrates 80%, on colza oil and crude sunflower seed oil 75%, on essence sunflower seed oil 85%, on corn of seed quality 70%, and other corn 60%. The import duty on custard powder, food flavoring material, and diabetic foods is as high as 160%.

In addition, the Indian government also levies 1% customs handling fee on all imports. The Indian government continues to impose a two percent education fund assessment on all sales, both imported and domestic. Tariffs imposed are calculated on the basis of product value plus additional charges, which artificially adds to the cost of exporters and impedes the entry of foreign products into India.

3.1.2High tariff on wine products

Despite of the enormous potential in wine market, India imposes high customs tariff on alcoholic beverage and restricts the entry of foreign wine products into India. The tariff rate for beer made from malt, sparkling wine, port and other red wines, and sherry and other white wines is 100%, whilst that for distilled wine, concentrates of alcoholic beverages, brandy, and whiskey is 182%.

Besides, foreign wine products are restricted by such discriminatory tariff rates as federal additional duty, in addition to which, some states imposes discriminatory tax and fee, or import and sales restrictions on imported colored wine. For instance, Maharashtra imposes no tax or fee on local colored wine，but 28% additional duty on the imported, while Tamilnadu completely forbids the sales of imported colored wine in its territory. The combination of additional duty and discriminatory tax and fee increases the general taxes for imported wine, and impedes wine products of relevant enterprises to enter India.

3.2Import restrictions

India has abolished many restrictions on the importation of capital goods. Provided that the residual life of products is over five years, end user can import second hand capital goods without license. Refurbished or re conditioned computer spare parts can only be imported if an Indian Chartered Engineer certifies that the equipment retains at least 80 percent of its residual life.

India still stipulates restrictive and trade distorting conditions for the importation of all types of vehicles. For instance, the government of India requires special licenses for importing motorcycles. However, import licenses for motorcycles are granted only to foreign nationals including those permanently residing in India. In addition, the application procedure is unduly complicated and lacking in transparency. In fact, there is no Chinese enterprise that has been granted such licenses.

India retains the Negative Import List, which can be roughly classified into the following three categories:(1) banned or prohibited items(e.g. tallow, fat, and oils of animal origin);(2) restricted items which require an import license(e.g. livestock products, certain chemicals;(3) canalized items(e.g.some pharmaceuticals, bulk grains) importable only by government trading monopolies.

3.3Barriers in Customs procedures

India applies discriminatory customs valuation criteria to import transactions. Customs valuation price is usually higher than transaction price of imports and exports, thus unable to reflect the true value of transactions, and effectively increasing tariff rates and becoming an instrument to control import. Moreover, Indian Customs requires extensive documentation, which leads to frequent processing delays and inhibits the normal operation of trade.

India applies a reference price to the import of soybean oil. The reference price is the basis upon which India assesses its 45% customs duty. When it rises above the transaction price, the effective rate of duty may also increase above India s 45% WTO bound tariff. The Indian government reportedly reviews reference prices every 15 days and adjust them accordingly. Although the reviews are done periodically, India hasn t formally defined this procedure, making it non transparent and unpredictable.

It is required in India that motor vehicles shall be imported through only three specific ports and only from country of manufacture.

In 2004, Indian Customs began to require registration to replace certificate for imported boric acid. However, the Ministry of Agriculture and other competent authorities have not published the criteria and procedures for obtaining this documentation. Imports of boric acid are, therefore, effectively blocked.

3.4Technical barriers to trade

3.4.1Textile labeling

India places strict requirements on textile labeling, including mark of manufacturer, ingredients of product, color, letter format and symbol format of labels. Labels on garment shall give clear information as to the name and address of manufacturer, product description, classification number, length, product care, packaging date,

product contents in percentage, and etc. In trade practices, complicated labeling regulations usually lead to delay in customs clearance and exert negative impact on the sales of seasonal textile articles and garments.

3.4.2Compulsory import certification system

The Bureau of Indian Standards(BIS) is responsible for assessing product conformity. Up to now, it has granted 20,000 certificates, 860 of which to imported products. The conformity assessment conducted by BIS is mostly on a voluntary basis, but some products are subject to compulsory certification. India promulgated in July 2006 the Pneumatic Tyres and Tubes for Automotive Vehicles(Quality Control) Order, 2006. This order pertains to bringing automotive tyres and tubes under mandatory certification which is necessary for securing safety of people. To comply with this requirement, all manufactures of these products shall be required to obtain certification from BIS. Hitherto, 159 products require compulsory import certification issued by BIS, and only with the certification will the Customs allow import of the products into India. Among the 159 products, there are food preservatives and additives, milk powder, infant dairy products, dyestuff, steel, cement, electric appliances, and dry batteries. India imposes unduly harsh conditions on certification, and does not give the Harmonized System Code(HS Code) of products under control, thus identification of products subject to compulsory certification is usually decided by the Customs. Exporters or manufactures need a representative in India to obtain certification, and products with certifications remain to be inspected. BIS has 38 offices across the country to grant certification, conduct inspection, and charge relevant fees. Applicants shall pay US＄300 fees to BIS, as well as travel expense and allowance to the inspection team. Having obtained certification, they are also required to pay an annual fee of ＄2,000 for using certification mark. When the sales volume reaches US＄1 million, 1% of the invoice value shall be charged; when the sales volume reaches US＄1—1.5 million, 0.5% of the invoice value shall be charged; when the sales volume exceeds US＄1.5 million, 0.2% of the invoice value shall be charged.

The Chinese side holds that the procedures of compulsory import certification system are complicated and costly, and have caused undue burdens to foreign manufacturers and increased export cost for Chinese enterprises.

3.4.3Lack of transparency in notification

India is lacking in transparency, when performing notification obligation stipulated in TBT and SPS agreement of the WTO. For instance, in May 2006, India notified the WTO of four technical regulations regarding the noise limits and emission standards of generators: Noise Limits for generator sets run with diesel, Emission Standards for new diesel engines(up to 800 kilowatt) for generator applications, Noise Limits for generator sets run with petrol or kerosene, and Emission Standards for new generator sets(up to 19 kilowatt) run on petrol and kerosene GSR 682(E). The Chinese side has noticed that the above mentioned technical standards came into implementation

before notification, and that India usually leaves inadequate time for comments, which obviously violates the provisions in TBT agreement concerning transparency and the TBT provision that "Before adopting a standard, the standardizing body shall allow a period of at least 60 days for the submission of comments on the draft standard by interested parties within the territory of a Member of the WTO."

3.4.4Certification negotiation

India is negotiating with many countries regarding mutual authentication of certification. India has respectively signed agreement on mutual authentication with Cuba, Israel, Mauritius, Turkey, Armenia, Bhutan, Nepal, Ukraine, and Singapore, and is negotiating with Germany, Sri Lanka, Pakistan, Afghanistan, Thailand, and Bengal in this regard. The Chinese side hopes to conduct consultations with India on mutual authentication of certification in order to reach an agreement in this regard and promote the development of Sino Indian bilateral trade.

3.5Sanitary and phytosanitary measures

The government of India made several amendments to the Prevention of Food Adulteration Rules in 2006, and the Chinese side expresses concern on some of these amendments. In May 2006, the Indian government announced that genetically modified(GM) products could only be imported at the approval of the Genetic Engineering Approval Committee(GEAC), and importers should label the ingredients of GM products. In July 2006, the Indian government announced that the rules governing GM food including bean oil would be postponed for implementation until the end of the fiscal year(March, 2007). The rules require that importers of GM food should obtain customs clearance through appointed government departments.

India made another amendment to the Prevention of Food Adulteration Rules on July 18, 2006. It is proposed to have a provision for establishment of Food Recall System. With this provision, no person shall by itself or by any person on its behalf, manufacture for sale or store, sell, distribute or exhibit for sale any article of food which is pre packed unless it has in place a system and procedure to recall the article of food or any ingredient or any substance placed in the market which is adulterated or misbranded or injurious to health.

On December 8, 2006, the Ministry of Health and Family Welfare promulgated the Prevention of Food Adulteration Rules(8th edition), stipulating Maximum Residue Limits of insecticides on certain food items. It is hoped that several amendments to the Prevention of Food Adulteration Rules, 2006 may draw close attention from relevant enterprises exporting food and processed food to India.

3.6Government procurement

India is not a signatory to the WTO Agreement on Government Procurement and lacks transparency in specific practices and procedures. The Indian government is

inclined to protect its state owned enterprises(SOE) by granting preferential policies and giving preferences to any SOE that makes an offer 10% less than the target price. As a result, there have been few foreign firms that have won Indian government procurement contracts. The Indian government adjusts its government procurement policy every three years. The next round is due in March 2008.

3.7Trade remedies

India has initiated a total of 93 anti dumping investigations against Chinese products since 1995, nine of which occurred in 2006. Except the investigation that was suspended because the petitioner dropped the charge, four were imposed provincial anti dumping measures, and seven were imposed final anti dumping measures. These investigations involve chemical, machinery, automobile, and pharmaceutical industries, and products including penicillin industrial salt, ductile iron pipes, Vitamin A Palmitate, compact disc recordables, Flat Base Steel Wheel, Poly Vinyl Chloride, Phosphoric Acid Technical grade and Food grade, Persulphates, presensitised positive offset aluminium and presensitised positive offset aluminium ps plates, Among which the preliminary ruling on the compact disc recordables from China decided to impose a US＄0.094 anti dumping duty per article.

Among WTO members, India ranks No.1 with regard to the imposition of anti dumping measures, and No.2 with regard to the initiation of anti dumping measures. 47.3% of its anti dumping cases are against China. Among developing countries, India initiates the most cases against China. The Chinese side expresses great concern on this practice by India.

It is noteworthy that in recent years, India has taken a negative role in granting Chinese enterprises market economy status. Till 2004, nine Chinese responding enterprises won market economy status in six anti dumping cases. But afterwards, India takes a negative attitude to the applications submitted by Chinese enterprises for market economy status. In 14 cases awarded final rulings since 2005, India has granted market economy status to none of the responding enterprises. There is a lack of in India s anti dumping investigations against China. The Chinese side will seek serious and prudent negotiations in this regard.

3.8Subsidies

Many of India s current export promotion policies do not comply with the WTO Agreement on Subsidies and Countervailing Measures, including the duty remission scheme, target plus scheme for export promotion(exporters would be entitled to duty free credit based on incremental exports substantially higher than the general annual export target), Served from India scheme, Vishesh Krishi Upaj Yojana(Special Agricultural Produce Scheme) introduced to boost exports of agricultural products such as fruits, vegetables, flowers and minor forest produce and their value added derivatives, and Duty Entitlement Pass Book scheme(DEPB). It is estimated that the

annual expenditure on export promotion policy reaches Rs 450 billion(approximately US $ 10 billion). The Chinese side expresses concerns over the possible distorting effect of these export promotion policies.

3.9Barriers to trade in services

3.9.1Insurance

Under rules of the Insurance Regulatory and Development Authority(IRDA), India s insurance market is open to private participation. However, foreign equity is limited to 26% of paid up capital. In as early as 2004, the Indian government announced its intention to amend the IRDA law to increase that cap to 49%. But the policy has remained unchanged.

3.9.2Banking

Foreign banks may operate in India through one of the three channels: branches, wholly owned subsidiary, or up to 74% ownership in a private Indian bank. Most Indian banks are government owned, controlling 80% of the banking system. Foreign direct investment, foreign institutional investment, or portfolio investment and investment by non resident Indians are liberalized from the 49% cap to the 74% cap. At least 26% of the paid up capital of the private sector banks shall be held by resident Indians. Foreign investment in state owned banks remains capped at 20%. Foreign investor voting rights are capped at 10% in private banks, and only 1% in state owned banks. The banking sector of India still needs further liberalization.

3.9.3Accounting service

According to relevant Indian regulations, only graduates of an Indian university can qualify as professional accountants in India. Foreign accounting firms can practice in India if their home country provides reciprocity to Indian firms. Internationally recognized firm names may not be used, unless they contain the names of proprietors or partners, or a name already in use in India. Due to the above restrictions, foreign accountants may not be equity partners of the Institute of Chartered Accountants of India(ICAI).

3.9.4Construction and engineering

Many construction projects in India are offered on a nonconvertible rupee basis. Only government projects financed by international development agencies permit payments in foreign currency. Foreign construction firms are not awarded government contracts unless local firms are unable to perform the work. Foreign firms may only participate through joint ventures with Indian firms.

3.9.5Legal services

The India Bar Council is entitled to denying applications from foreign law firms for setting up practices in India. It imposes strict restrictions on activities of foreign law firms, which sharply curtails the participation of foreigners in India s legal services market.

Foreign investment is not permitted in legal service sector. International law firms are also not authorized to open offices in India. Anyone wishing to practice law shall enroll as a member of the Bar Council. If that person happens to be a foreign national, he/she must belong to a country that allows Indian nationals reciprocal rights to practice in their country. Foreign services providers may be engaged as employees or consultants in local law firms, but they cannot sign legal documents, represent clients, or be appointed as partners.

3.9.6Telecommunications

The Indian government has taken positive steps towards liberalization of telecommunications. For instance, in 2005, foreign equity limits were raised from 49% to 74%. India allows private participation in the provision of all types of telecommunications services, but concerns remain regarding its apparent inclination to provide protection to government owned telecom operators.

The Indian government retains a significant ownership stake and interest in major telecommunications firms, all of which formerly enjoyed monopoly status in their areas of operation. For instance, the government holds a 26% interest in the international carrier, VSNL, a 56% interest in MTNL, and a 100% interest in BSNL. VSNL adopts restrictive measure on international submarine cable access and landing stations in India.

The Indian government has rejected the entry of Chinese companies into its telecommunication sector under the pretext of possible threat to national security. In March 2005, a Chinese company submitted to the Foreign Investment Promotion Board a US $ 60 million investment plan of establishing new production base in India and expanding the business scope of its Indian subsidiary. However, the application had received no approval by the end of 2006.

The Indian government prevented a Chinese company from expanding its presence in India in June 2006 under the pretext of security concern. India s largest telecommunication operator BSNL held a public invitation for tender valued at US $ 4.8 billion in June 2006 to expand its GSM mobile network. Five companies including a Chinese company attended the bidding. Before the invitation for tender, BSNL had set stringent restrictions on bidders, requesting that one third of the equipment bid for the tender will have to be manufactured in India. All the five companies are technically qualified, but the Chinese company was the first to be excluded, for the reason of its Chinese origin. An American Company was also eliminated, since it would purchase from Chinese company several projects if awarded the tender. The Chinese side expresses great concern over these incidents,

and hopes that the Indian government will abide by the non discrimination principle of the WTO to ensure fairness and transparency in bidding procedures so as to avoid the re occurrence of such incidents.

3.9.7Distribution services

The retail sector in India is closed to foreign investment, except for single brand retail stores, which are opened to up to 51% foreign investment.

3.9.8Broadcasting and television

The government of India permits foreign direct investment of up to 49 percent in cable networks. Total foreign investment in "direct to home"(DTH) broadcasting has been restricted to 49 percent, with a foreign direct investment ceiling of 20 percent on investments by broadcasting companies and cable companies. News channels are permitted to have up to 26 percent foreign equity investment. Operational control of the editorial content must be in Indian hands. The Indian government has also announced restrictive minimum capitalization requirements. In addition, all pay television content providers are required to make their content available to all cable and satellite television system operators.

4Barriers to investment

Most sectors in India are open to foreign investment. But up to the present, India continues to limit or prohibit foreign investment in politically sensitive sectors. Foreign investors suffer from restrictions in the fields of retailing, financial services, telecommunications, and broadcasting. According to report of the World Bank Report on Investment Safety, India s investment climate ranks the 173rd out of 175 countries in this regard. The interest of foreign investors in India remains to be enhanced.

In the recent two years, the Indian government has frequently restricted Chinese enterprises to invest in India under the pretext of security concern, which has greatly impeded the normal investment and trade between China and India. In 2006, the National Security Council was reportedly planning to formulate the National Security Exception Bill, requiring comprehensive security inspection on the investment from sensitive countries and regions, such as China(Hong Kong, Macao and Taiwan included), Pakistan, and Bengal, and proposing to put several Chinese companies into security sensitive list. The Indian government has also enlarged the list of investment sectors involving potential safety hazard, and added medicine and pharmaceutical industry, data processing, metallurgy, IT hardware, petroleum and natural gas exploration, petroleum and natural gas pipeline, and petroleum refinement as sensitive sectors. In the past, only Pakistan and Bengal were listed as sensitive countries involving potential safety hazard, and only port, aviation, telecommunications, and Internet services were listed as sensitive sectors. Up to now, several Chinese companies have suffered from investment obstacles in India.

The above practices in India have not only discouraged Chinese enterprises from exploring the Indian market, but also impaired the interest of the Indian business community. The Chinese side believes that political, economic and trade relations between China and India have maintained strong growing momentum in recent years. An all round strategic partnership oriented towards peace and prosperity has been formed between the two countries. As India is energetically developing its infrastructure, to which Chinese companies have a wealth of experiences, especially in the building of airports, ports, roads, bridges, power plants and telecommunications, and are able to provide quality products and services at competitive prices, there is enormous space for mutually beneficial cooperation between China and India. It is hoped by the Chinese side that those irrational and improper practices and policies can be changed in order to create a favorable environment for Chinese enterprises to conduct economic and trade activities in India.