I. INTRODUCTION

1.1 Basic Features of China's Economy

China has a population of over 1.17 billion, with a territory of 9.6 million square kilometres. In 1992, the gross domestic product reached Renminbi yuan (RMB) 2,400 billion (about US$400 billion). Eighty per cent of the population is still living in the countryside. In 1992, the average annual per capita net income was RMB 784 (about US$140) for rural dwellers and the average annual living expenses were RMB 1,826 (about US$326) for urban residents.

China's foreign trade has developed rapidly in recent years. In 1992, the total value of imports and exports of goods reached US$165.63 billion. Export value stood at US$85 billion and import value at US$80.63 billion. China's export value in 1992 represented 2.3 per cent of the world's total.

1.2 Objectives of China's Economic Reforms

China has been progressively reforming its economic system since 1979. The objective of the economic reform is to establish a socialist market economy system, which means a market economy in a socialist country where the market plays a fundamental role in the rational allocation of resources under State macro-control so that (i) the nation's economic activities are undertaken in accordance with the market forces of supply and demand; (ii) resources are channelled into sectors where comparative advantage exists
through the functioning of price leverage and competition while enterprises compete with one another for survival because they are forced and motivated to do so in this market-based system; and (iii) the relation between production and demand can be adjusted rapidly, for the market is highly responsive to various economic signals.

Establishing a socialist market economic system is a significant development and a breakthrough resulting from China's past fourteen years of reform and its opening to the outside world. In the establishment of this system, four major tasks have been identified:

(1) The operational mechanism of State-owned enterprises, particularly large and medium-sized enterprises, shall be transformed with a view to forcing them to compete in the market-place and strengthening their vitality and improving their overall quality. Enterprise autonomy in business operations shall be developed through the separation of government functions from enterprise management and, in particular, by the rationalization of the property rights relationship. Enterprises shall be legal entities in their own right and shall compete in the market, exercising full autonomy in their operations and assuming full responsibility for their own profits and losses. Shareholding systems shall be introduced on a trial basis and the combining and merging of enterprises under appropriate circumstances shall be permitted. Some small State-owned enterprises may be leased or sold to individuals.

(2) Growth of the market system shall be promoted. Continued efforts shall be made to (i) develop commodity markets, particularly markets for production materials (capital goods); (ii) foster the growth of financial markets for securities such as bonds and stocks; and (iii) open up markets for technology, labour, information and real estate. The aim is to form a common and open market system on a nationwide basis. Price reform should be accelerated in order to straighten out the relationship between interrelated prices and set up a price system where the market plays a predominant role in price formation.

(3) Reform shall be further deepened in respect of systems of wealth distribution and social security. Relations concerning wealth distribution between the State and enterprises as well as those between the Central Government and local governments shall be rationalized by phasing in a system under which profits and taxes are separately surrendered by enterprises to the State and tax revenues are shared by the Central Government and local governments. Reforms in the pay system shall also be stepped up while a social security system encompassing unemployment, old-age pensions and health care shall be actively pursued.

(4) Work on the transformation of government functions shall be stepped up. It is stressed that to separate government functions from enterprise management is essential to such a transformation. Governments at all levels shall not be allowed to interfere in respect of powers assumed by enterprises in accordance with national laws and regulations.
Neither central nor local governmental departments shall deny an enterprise of decision-making powers which have been extended to it. It is clear that government functions are to be performed mainly in such areas as overall planning, policy-making, provision of information and services, coordination and supervision. Eventually the government will be able to exercise indirect macro-control over the economy.

The foreign trade reform now underway in China focuses on ensuring conformity of the import system with international rules. The reform is directed at the liberalization of import restrictions and the reduction of administrative interference.

2. SPECIAL ECONOMIC ZONES AND OPEN CITIES IN CHINA

Since 1979 China has established a number of zones and areas where more open policies are applied. They include five Special Economic Zones (SEZs) and fourteen coastal cities, open coastal economic zones composed of 284 cities and counties, six open cities along the Yangtze River, sixteen inland cities and thirteen inland boundary cities. With a population of 320 million, these areas enjoy greater flexibility in the use of foreign capital, introducing foreign technology and engaging in economic cooperation with foreign countries.

Foreign investors are granted favourable treatment in the following respects:

(1) Equipment, instruments and workshop building materials, imported by foreign investors as part of their investment, are exempted from customs duties and the Consolidated Industrial and Commercial Tax. This also applies to imported raw materials, spare parts and packing materials designed for export production.

(2) A 15 per cent enterprise income tax is levied on the income of joint ventures, cooperative enterprises or enterprises with sole foreign investment operating in the SEZs and economic and technological development zones of coastal cities. Legally acquired profits of foreign investors remitted abroad are exempt from income tax.

(3) A 15 per cent preferential income tax is applied, upon approval by the Tax Department, to technology-intensive projects, or projects having overseas investment exceeding US$30 million.

(4) A 15 per cent preferential enterprise income tax is applied, upon approval by the Tax Department, to joint ventures, cooperative enterprises and enterprises with sole foreign investment whose operations or investments are in the fields of energy, communications and port construction.

The establishment of SEZs and other special economic areas is proposed by the State Council and approved by the National People's Congress. Experience gained from these special policies will gradually be applied in the interior areas. At present, there are no plans for the establishment of new SEZs.
China is moving towards a socialist market economy. Joint ventures, cooperative enterprises, wholly-foreign-owned enterprises in the entire country and State-owned enterprises in the SEZs are all under the guidance of the market mechanism. In 1992, one-seventh of China's foreign trade value was handled by enterprises in the SEZs. At present, the practice of renting land has been pursued in the SEZs and coastal regions. Private ownership of houses and other buildings is permitted but not private ownership of land. Tax regulations set by the State for the SEZs are uniformly applied in these zones. Laws on patent, copyright, trademark and bankruptcy applied to State-owned enterprises in the SEZs are the same as those applied in other parts of China.

Since April 1988, the Chinese Government has further liberalized certain policies for the coastal areas by granting more autonomy, as follows: foreign investment projects under US$30 million may be approved by provinces and municipalities; technological transformation of State-owned and collectively-owned enterprises through the formation of Chinese-foreign joint ventures or cooperative ventures is encouraged; the importation of raw materials for processing for export has been facilitated; and entry and exit procedures for businessmen have been simplified.

3. IMPORT AND EXPORT REGIME

3.1 Foreign Trade Plans

3.1.1 Formulation of the Plan

The Constitution stipulates that "China is a socialist market economy and the government shall strengthen its economic legislation and improve its macro regulation and control". The foreign trade plan is drafted in the light of the social and economic development needs of the country, the balance-of-payments situation and economic factors such as supply and demand, and competition in both domestic and international markets. The plan serves merely as a target and, being in the nature of guidance, it is directed to the macro-regulation of the national economy.

Initial plans are separately drafted by foreign trade corporations and institutions of provinces, autonomous regions, municipalities directly under the Central Government and cities separately listed in the plan. Based on these plans, MOFTEC works out a draft national foreign trade plan, which goes first to the State Planning Commission for overall coordination and then to the State Council for examination. Finally, the draft plan is submitted to the Standing Committee of the National People's Congress for approval. The State Planning Commission and MOFTEC are responsible for implementation of the approved plan. Import and export products of foreign-investment enterprises in China are not covered in the plan.
3.1.2 Plan Targets

State guidance is only applicable to the export in bulk quantity of natural resources having an important bearing on the national economy and the people's livelihood, in which case the maximum export quantity is specified. The guidance plan is subject to adjustment in the light of both national and international markets. It is non-mandatory and no punitive measures are instituted. Having full autonomy in their business operations, foreign trade corporations are fully responsible for their own profits and losses. The present list of products subject to export guidance will be shortened gradually. In 1993 the number of listed export products was reduced by more than half.

Import restrictions are imposed on a few products which are paid for with foreign exchange owned by the Central Government. Such restrictions are dependent on the amount of foreign exchange owned by the Central Government. The restrictions are intended to ensure national economic development and the minimum subsistence needs of the people. The amount of foreign exchange owned by the Central Government will be reduced year by year with the constant perfection of the market mechanism. Therefore, the share of China's total imports covered by these restrictions will be reduced by a big margin in the national total import value.

Imports by local governments, ministries and enterprises (including foreign-investment enterprises) now constitute about 85 per cent of the total national import value, which means that imports are increasingly subject to market regulation. When unexpected developments occur with respect to production or the market, the State may readjust the planned import and export targets.

3.1.3 Implementation of the Plan

The foreign trade plan is implemented by relevant national foreign trade corporations and local governments. MOFTEC exercises supervision over the implementation of the plan by law. MOFTEC's role in the implementation of the plan is primarily limited to monitoring and evaluation.

The export plan is assigned to national foreign trade corporations and foreign economic and trade relations departments of local governments before it reaches provincial foreign trade enterprises. The import plan (quotas) is assigned to the provincial planning commissions and departments responsible for production under the State Council before it reaches relevant enterprises. Enterprises may entrust the handling of imports to any foreign trade corporations authorized to engage in foreign trade on the basis of agency contracts.
The Central Government requires that the provinces, autonomous regions and municipalities, foreign trade corporations and production enterprises authorized to engage in foreign trade undertake contractual obligations towards the State on export earnings, foreign exchange submission and efficiency targets. These targets are determined through consultation and are specified in the contracts. The targets accepted by the local authorities are implemented by local foreign trade corporations, again on the basis of contracts.

3.2 Foreign Exchange Administration System

3.2.1 Chief Organizations & Financial Institutions in Charge of Foreign Exchange

As a member of the IMF, China currently administers its foreign exchange arrangements pursuant to Article XIV of the IMF, i.e. transitional arrangements, according to which, in its current account of balance of payments, China may apply foreign exchange restrictions. China will, however, as conditions improve, accept the obligations contained in Article VIII:2, 3, 4, i.e. eliminate foreign exchange restrictions in the current account of its balance of payments, refrain from maintaining multiple exchange rates, and seek to realize free convertibility of the currency. Reform of China's foreign exchange system is moving toward this objective.

The chief organization in charge of foreign exchange is the State Administration of Exchange Control (SAEC), under the leadership of the People's Bank of China. Its major functions include: (1) formulating rules and regulations of foreign exchange control; fixing and publishing the exchange rates of Renminbi; (2) controlling official foreign exchange reserves and foreign debts, and administering Foreign Exchange Swap Centres (FESC); (3) controlling foreign exchange dealings, trade and non-trade receipts and payments, and drafting balance-of-payments sheets; and (4) investigating cases involving violation of the regulations governing foreign exchange control, and penalizing violators.

The Bank of China is a State bank specialized in foreign exchange operations. The State banks, regional banks, banks with foreign investment, Sino-Foreign jointly-owned banks and non-banking financial agents within the territory of China may conduct foreign exchange business within their designated scope and subject to the supervision and administration of the SAEC and its branches.
3.2.2 Foreign Exchange Allocation Mechanisms

Currently, foreign exchange in China is divided into two categories: central foreign exchange; and foreign exchange owned by local departments, retained by enterprises and foreign-investment enterprises. The central foreign exchange is allocated and used subject to plans for the importation of a few essential materials which are vital to the national economy and the people's livelihood. This share of foreign exchange takes up only 15 per cent of the foreign exchange spent for total imports. Transactions are conducted in light of the principle of non-discrimination; there are no country-specific restrictions. While the foreign exchange owned by local departments, enterprises and foreign-investment enterprises is subject to guidance plans and market regulation, these enterprises have discretion over payments for imports and services and the sale of this exchange in the foreign exchange swap centres.

Users of foreign exchange are required to submit a written application to SAEC, indicating the amount and currency to be used, and the purpose of the transaction. In addition to these items, if central foreign exchange is to be used, the quality of the commodity to be purchased must be indicated. In so far as the foreign exchange owned by local departments, enterprises and foreign investment enterprises is concerned, the application will be accepted, and a foreign exchange certificate will be automatically issued, provided that the amount to be used does not exceed the balance in the account.

3.2.3 Exchange Rates

Currently, China has two coexisting exchange rates: an official exchange rate and a market exchange rate. The official exchange rate is the main rate formulated and published by the SAEC. Factors taken into account by SAEC in deciding on adjustments of the official rate include the changes of comparative purchasing power of foreign and local currencies, the balance of international payments, the foreign exchange reserves and the exchange rates in the international markets. The exchange rate was US$1 = RMB 5.719 on 7 March 1993. The market exchange rate is the price in the foreign exchange swap centres, which is determined by buyers and sellers in light of supply and demand. This rate was US$1 = RMB 8.2 on 7 March 1993.

The coexistence of two exchange rates is a transitional mechanism during the process of economic reform. China will take effective measures to develop the foreign exchange market and to stabilize the market rates in order to create a condition for unifying the RMB rate. The goal is ultimately to establish a floating system of exchange rates on the basis of a single market rate.
3.2.4 Foreign Exchange Swap Centres (FESC)

From the very outset of the reform and opening up to the outside world, with a broadening scope and intensification of efforts, China has been continuously adjusting the balance of payments through market levers in the field of foreign exchange administration. China started foreign exchange swap centres in October 1980. These were designated to handle transactions of foreign exchange retained by local departments and enterprises. Since 1986, this business was extended to the transaction of foreign exchange owned by foreign-investment enterprises. And from 1991, it was further extended to the transaction of foreign exchange held by national residents.

China's foreign exchange swap centres are operating on the basis of market forces, similar to those in western countries. Currently there are 15 swap centres, whose participation is secured through a system of membership. Membership is divided into two groups: one is brokers (financial institutions authorized to engage in exchange transactions) who deal in foreign exchange on behalf of their clients; the other is jobbers (domestic and foreign-investment enterprises) who buy or sell foreign exchange of their own. Both types of members can assign dealers to handle their transactions.

The rate at which exchange is transacted is determined by buyers and sellers in light of supply and demand in the market. Generally, rates are based upon the closing rate of the previous representative business day, and both buyers and sellers bargain over requests and offers. After transactions are completed, the swap centre will notify sellers and buyers to conclude the deal within a defined period of time.

The swap centre publishes priorities for exchange, with a view to channelling flows of exchange in line with national industrial policy. The priorities are in the nature of guidance, having no mandatory bearing on enterprises' use of exchange.

The FESC is under the supervision of the SAEC, and in normal cases, the Government does not intervene in the operations of the FESC. However, in the event of abnormal fluctuations of the market rates, the Central Bank may intervene as appropriate, and fix a temporary ceiling rate as necessary.

Chinese FESCs are in the process of development. In the near future, China will take effective measures to set up a unified and standard FESC. The objective of reform of the foreign exchange system is to realize the free convertibility of RMB. This will also require a corresponding policy for the reform of the price system and the operational mechanism of enterprises. In short, China will, in a positive manner, create conditions for realization of this objective.
3.2.5 Foreign-Investment Enterprises

China encourages foreign investment and protects the legal rights of foreign investors. All the foreign exchange earned by foreign-investment enterprises through the export of their products and services rendered can be wholly retained by them. Also, they may open accounts of deposit at any bank dealing in foreign exchange in China. All normal foreign exchange expenditures are payable from their account of deposit. The net profits and any other legal income earned after taxation can be remitted overseas from the enterprises' accounts. The same is true for the wages and salaries of expatriate employees.

In their business activities, foreign-investment enterprises can directly borrow from foreign banks and then make a registration with the SAEC or its branches. Foreign-investment enterprises can also apply for loans from banks dealing in foreign exchange within China. The loans are of two kinds, i.e. loans for fixed assets and loans for liquid assets. The lending rates are decided in light of rates in the international market.

The basic principle governing the foreign exchange of foreign-investment enterprises is the striking of a balance of foreign exchange, that is the foreign exchange earned by these enterprises should be used to pay for their foreign exchange expenditure and the profits of the investors. The balance of foreign exchange is achieved through the export of their products and the provision of services.

3.3 Restrictions on Importation and Exportation

3.3.1 Generally-Applicable Import and Export Restrictions

China prohibits the import of certain commodities, including various types of weapons, ammunition and explosives; narcotic drugs, poisons, obscene materials; and foodstuffs, medicines, animals and plants that are inconsistent with China's food, medical, materials and plant standards. China also prohibits the export of narcotic drugs, poisons, materials containing State secrets, and precious and rare animals and plants.

3.3.2 Import and Export Licensing

MOFTEC is the department exclusively responsible for administering the licensing system. It may authorize the departments of foreign economic relations and trade at the provincial level and the special commissioner offices located at the main ports to issue licenses for some import and export products within their respective administrative areas.
Import Licensing System. In 1984, the State Council promulgated the "Interim Regulations on Licensing System for Import Commodities" and MOFTEC and the Customs General Administration issued "Detailed Rules for the Implementation of the Interim Regulations on Licensing System for Import Commodities". The Interim Regulations are uniformly implemented throughout China. The import licensing system ensures that China's limited foreign exchange resources are used for imports necessary for national economic development and that domestic industries are protected. In 1992, of the total import value of US$80.63 billion, imports subject to licensing represented 38.3 per cent, covering US$30.9 billion. MOFTEC decides which products require import licenses on the basis of supply and demand conditions, domestic production and foreign exchange earnings.

The Chinese import licensing system is administered without discrimination among countries or regions.

As of April 1993, China applies import restrictions to 53 product categories. These product categories are:


Ministries of the State Council and their subordinate units also need licenses for imports. The competent departments must apply for licenses at MOFTEC. Special commissioner offices in 15 provinces issue some import licenses to departments within their respective administrative areas. Similarly, the foreign economic relations and trade bureaus of various provinces, autonomous regions and municipalities directly under the Central Government are responsible for issuing some import licenses.
Applicants must submit application letters signed and stamped by officials at or above the department or bureau level, together with import certificates, including certificates approving the import by the competent departments and/or industry-specific approval departments under the State Council. All applications must be accompanied by a foreign exchange certificate issued by the foreign exchange administration authorities. Importers of goods listed in the State import plan (together with the quantities and the users) may apply for and obtain import licenses with the documents approving the planned import, without going through the industry-specific approval departments. When importing products for approved projects utilizing foreign investment and imported technology or equipment, the importer may request the import license directly from the license-issuing organ. Chinese-foreign equity joint ventures and wholly-owned foreign enterprises may be exempted from the import license requirement in respect of goods used for export production. These enterprises are also subject to fewer formalities when the license applications relate to the construction or expansion of plants.

**Export Licensing System.** The export licensing system is administered in accordance with the "Interim Procedures for the Export Licensing System". In 1992, products subject to export licensing accounted for 48.3 per cent of the total value of Chinese exports. As of July 1993, the total number of products subject to export licensing will be reduced to 143. For some of these products the licenses are issues by MOFTEC or the special commissioner offices of MOFTEC; however, for the majority of the products, the provincial authorities issue the licenses. Products are subject to restrictive export licensing to take into account the quota obligations in bilateral and multilateral agreements, the capacity of foreign markets and the need to avoid indiscriminate exports. Some products are placed under export restriction because they are essential to the national economy and the people's livelihood.

Applications for an export license must be submitted to MOFTEC and be accompanied by documentary evidence, such as documents of approval for the establishment of the enterprises, export contracts and letters of credit. The procedures are the same for all export destinations. The decision on the request for an export license usually takes three to five working days. Export licenses are valid for six months; they may be extended for a period of two months upon request. A small fee is collected for each license.

Enterprises with foreign investment engaged in exporting products not produced by them must obtain export licenses if the products are subject to licensing. If the products are not subject to licensing, customs clearance will be given after examination has been made by the Customs on the basis of contracts and other relevant documents.

**3.3.3 Import Substitution**

The Chinese Government announced on 22 August 1992 that all lists covering products for import substitution had been removed and that China would not reintroduce such lists in the future.
3.4 Customs Tariffs and Other Charges on Importation and Exportation

3.4.1 Legal Basis and Principles of China's Tariff Policy

The Customs tariff of China is the main type of charge imposed on imported and exported goods. The purpose of the Customs tariff is two-fold: (a) to regulate imports and exports so as to promote and protect domestic production; and (b) to serve as an important source of revenue for the Central Government after the reform of China's financial system.

China's tariff policy is directed to promoting the country's process of reform, opening to the outside world and protecting national industry through pursuance of industrial policy and opposing trade discrimination.

The legal basis for China's tariff policy is as follows:

(1) Customs Law of the People's Republic of China (adopted in 1987 at the 19th Session of the Standing Committee of the 6th National People's Congress),

(2) Regulations on Import and Export Duties of the People's Republic of China (issued by the State Council in 1985, amended in 1987, 1988 and 1992);


The basic principles for establishing duty rates are as follows:

1. Duty-free or low duty rates are applied to those imported goods which are needed for the national economy and the people's livelihood but which cannot be produced or sufficiently supplied domestically.

2. Import duty rates on raw materials are generally lower than those on semi-manufactured or manufactured products.

3. For parts or components of machinery, equipment and instruments which cannot be produced domestically, or the quality of which is not up to standard, the import duty is lower than the duty on finished products.

4. Higher duty rates are applied to those products which can be produced domestically or which are not essential for the national economy and the people's livelihood.

5. A still higher duty is applied to imported products, the equivalent of which can be produced domestically and which need protection.

6. The majority of products are free of export duty.
3.4.2 Tariff Classification and Structure

China adopted the Harmonized Commodity Description and Coding System as from 1 January 1993 and joined the International Convention on the Harmonized Commodity Description and Coding System in the same year. There are 21 sections, 97 chapters and 6321 tariff headings in the Customs Import and Export Tariff of the People's Republic of China.

Tariff rates are fixed by the State Council. Partial amendments to the duty rates are subject to the deliberation and final decision of the Tariff Commission and authorization by the State Council.

Currently, the simple average of import duties is 39.9 per cent while the weighted average tariff (measured against actual import volume for 1992) is 21.9 per cent. Among 6321 tariff headings, the tariff rates for 125 headings is nil, accounting for 2 per cent of the total; those for 2429 is 10 to 30 per cent, representing 38.4 per cent of the total; those for 1713 is 30 to 60 per cent, representing 28.4 per cent of the total and those for 1479 is above 60 per cent, accounting for 23.4 per cent of the total. For information on tariff rates for specific products and import statistical data for recent years, reference may be made to the data tape and disc submitted by China to the GATT Secretariat.

There are two columns of import duty rates: general rates and preferential rates. The preferential rates apply to imports originating in countries and regions with which China has concluded reciprocal tariff agreements, whereas the general rates apply to imports from other sources.

At present, 25 items, including tungsten ore and magnet iron, are subject to export duties.

3.4.3 Customs Valuation

China's customs duties are ad valorem duties. The duty-paying value of imported goods is assessed according to the c.i.f. price based on the normal transaction value. If the transaction value of imported goods cannot be ascertained, the duty-paying value is determined based on the transaction value or computed value of identical or similar goods.

The duty-paying value of exported goods is the f.o.b. price of the goods.

The Customs Law provides for appeal procedures. In case the person obligated to pay the duty is involved in a dispute over duty payment with Customs, he may apply to Customs for a reconsideration of the case. If he rejects Custom's decision, he may sue at the People's Court.

The Chinese Government has indicated its intention to accept the Tokyo Round Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade and its Protocol.
3.4.4 Tariff Exemptions

In accordance with international practices and the stipulations of the Customs Law, import duty reductions or exemptions are available for the following goods:

1. A consignment of goods, on which customs duties are estimated below RMB 10;
2. Advertising articles and samples, which are of no commercial value;
3. Goods and materials, which are rendered gratis by international organizations or foreign governments;
4. Fuels, stores, beverages and provisions for use en route loaded on any means of transport, which is in transit across the border;
5. Exported goods being replaced;
6. Goods damaged prior to the Customs release;
7. Goods covered by international treaties providing for tariff reductions and exemptions which China has entered into or acceded to;
8. Goods temporarily imported;
9. Goods imported under the processing programme;
10. Goods imported free-of-charge for offset purpose;
11. Goods imported for construction in the SEZs;
12. Equipment imported by foreign-investment enterprises as a means of investment;
13. Goods imported for special purposes (such as scientific research, teaching, oil extracting, sports, radio and television broadcast, etc.).

Import goods under Items (11), (12) and (13) shall be put under the Customs supervision and control. The Customs duty shall be recovered if such goods are sold, transferred or used for other purposes during the time period of supervision and control.
3.4.5 Import Regulatory Duty

The import regulatory duty was removed as from 1 April 1992.

3.4.6 Charges for Service Rendered

China imposes no customs user fees.

3.5 Safeguard Measures

3.5.1 Anti-Dumping and Countervailing Duties

China is drafting specific legislation concerning anti-dumping and countervailing duties.

3.5.2 Emergency Action on Imports of Particular Products

Currently, China is drafting its foreign trade law, which will provide relief to domestic producers from injurious imports, consistent with GATT rules.

3.6 Policy for Developing Exports

(1) Tax rebates are applied to the export of a number of processed products;

(2) Preferential loans are granted to export-oriented production enterprises with a view to encouraging them to introduce advanced technology and improve the structure and quality of their export products;

(3) Export enterprises are permitted to retain a portion of their foreign exchange earnings.
4. **TAXES AND REGULATIONS**

4.1 **Price Controls**

4.1.1 **Domestic Price Control System**

There are presently three types of prices: (i) State price; (ii) State guidance price; and (iii) market-regulated price. The State price is set by the price administration authorities and cannot be changed without the approval of these authorities. The State guidance price is a more flexible form of pricing. The price administration authorities stipulate either (a) the basic price and a floating range, or (b) a ceiling price and a floor price. Enterprises can, within the limits of the guidance and taking into account the market situation, make their own decisions on prices. As to market-regulated prices, enterprises are free to fix prices in accordance with supply and demand, to the extent permitted by generally applicable laws, regulations and policies concerning prices.

Products and services subject to State pricing are those having a direct bearing on the national economy and the basic needs of the people, including those products for which there is scarcity in China. Presently, products subject to State pricing include:

1. Purchase prices of agricultural products under State purchase contracts: a few kinds of grain, cotton, tobacco, silkworm cocoon, compressed tea and the ex-work price of State-controlled timber;

2. Ex-work prices of heavy industrial products: crude oil, coal, electrical power, natural gas, refined oil and chemical fertilizers (altogether 25 products);

3. Ex-work prices and selling prices of industrial consumer goods: edible salt and a few therapeutic medicines;

4. Infrastructure service charges: railway transport, post and telecommunications (altogether 4 kinds of such services)

Presently, products subject to State guidance pricing include:

1. Purchase prices of agricultural products: a few traditional Chinese herbs and medicines, sheep wool and resins;

2. Ex-work prices of heavy industrial products: a few chemical minerals and products, a few non-ferrous metals and large, specific-purpose machinery and equipment;

3. Ex-work prices and selling prices of industrial consumer goods: a few kinds of wood pulp and newsprint, a few synthetic materials.
In formulating State prices and State guidance prices, the following four elements are taken into account: normal production costs; the supply and demand situation; relevant government policies; and prices of related products. When fixing prices of consumer goods, consideration is given to the limited consumer purchasing power.

By the end of 1992, the share of State-priced products accounted for around 10 per cent in the national total retail sales value, about 15 per cent in the total purchase value of agricultural products, about 20 per cent in the total sales value of production means and less than 3 per cent in the total import value.

Thus, the share of directly-controlled prices has been reduced to such an extent that it is even smaller than that in major Western market economies. That share will become even smaller as reform continues. China's price system is becoming increasingly rationalized, creating a relatively fair marketplace in which enterprises may compete.

Naturally, in the context of a socialist market economy, the existing price system requires further reforms and improvement. Taking into account the capacity of the society to absorb change, China is prepared to speed up its pace of price reform to redress the remaining distortions in price relations, so as to set up a predominantly market-based pricing mechanism and promote the rational allocation of resources.

4.1.2 Application of Price Controls to Imported Products

Currently, the majority of imports are handled through a system of agency under which enterprises are free to negotiate prices. Imports subsidized by the government are chemical fertilizers, agro-chemical intermediates and phosphate, accounting for less than three per cent of the total national import value. The reason for retaining State prices on these imports is that the income level of China's peasants is so low that they cannot afford to buy those imports without State assistance. Only when the State imports those products at a higher price but sells them at a lower price can the normal production and basic subsistence needs of China's peasants be ensured. The difference between import costs and selling prices is covered by fiscal subsidies. Such price management does not affect the entry of foreign goods into the Chinese market.

Even so, the goal of reform is to promote market-based prices for all imports. Subsidies on the few products noted above will be gradually removed.

Prices for government services, railway transportation and postal services are the same for domestic and imported goods.
4.1.3 Application of Price controls to Products Destined for Other Territories

Export prices are fixed by enterprises engaged in foreign trade, free of government interference.

In the case of export business carried out by foreign trade corporations on their own or jointly with production enterprises, price components include purchase price or production costs, transportation expenses, storage expenses, banking charges, a reasonable profit margin and the supply and demand conditions in the international markets.

In the case of export business entrusted through the agency system to foreign trade corporations, prices are determined on the basis of domestic costs, international market conditions and the commission charged by the foreign trade corporations.

Data on the costs of export products are compiled by the enterprises, not by government departments.

4.2 Internal Taxes and Regulations

4.2.1 Internal Taxes Levied on Products

Products are subject either to the Consolidated Industrial and Commercial Tax (CICT) or to the Product Tax and the Value-Added Tax. The coverage and rates for these two taxes are determined by the State Council; the taxes are administered by the Ministry of Finance. The Product Tax and Value-Added Tax are applied only to domestic products whereas products of foreign enterprises, Chinese-foreign joint ventures and Chinese-foreign cooperative ventures are subject to the CICT. The product coverage of the Product Tax and the Value-Added Tax is almost the same as that of the CICT. The tax rates of a small number of products subject to the CICT are slightly different from the Product Tax and the Value-Added Tax for the same product. Where the corresponding CICT rates are higher, the Chinese authorities intend to reduce them to the level of the Product Tax and the Value-Added tax. Work on the combination of the CICT with the Product Tax and Value-Added Tax will begin this year and is expected to be completed by the end of 1995.

4.2.2 Border Tax Adjustments

The CICT is an internal tax and is levied on imports by the Customs on behalf of the tax department at the Customs entry points. The Product Tax or Value-Added Tax is levied on domestic goods at the production stage. Tax exemptions are granted for products that are exported. The Product Tax or the Value-Added Tax levied on products sold by production enterprises to foreign trade corporations for export is reimbursed when the products are actually exported. Products exported by foreign investment enterprises are exempted from the CICT.
4.3 Local-Content Requirements

No local content requirement is imposed by the Government. Export performance and local content obligations are contained in contracts of some Sino-foreign investment enterprises, as agreed upon by participants to those enterprises on their own initiative.

4.4 Technical Standards

According to the provisions of the Law of the People's Republic of China on Import and Export Commodity Inspection, the State Administration for the Inspection of Import and Export Commodities is the competent authority in charge of import and export commodity inspection.

The import and export commodity inspection bureaus in various parts of China, over which the State Administration has jurisdiction, and other inspection organizations designated and/or accredited by the State Administration, act as independent third parties conducting inspection of import and export commodities. Most of the test laboratories for import and export products are the quality control and test centres for like domestic products. They carry out testing work on import products within their mandate while at the same time carrying out inspection of like domestic products and export products.

Standards for inspection are based on related international standards which China has adopted to the greatest extent possible. Forty per cent of China's standards are the same as, or equivalent to, related international standards.

There are compulsory standards and non-mandatory standards. Standards concerning the protection of human life, health and safety as well as those stipulated in administrative laws and regulations of a mandatory nature are compulsory standards. Compulsory standards are applied to both domestic and import/export goods. The standards for inspection methods are established by the State Administration.

In accordance with relevant laws and regulations, inspection is carried out by other special organizations with regard to the safety and quality inspection of imported medicines and crude drugs; sanitary inspection and quarantine of foodstuffs; quarantine of animals and plants; calibration of weighing and measuring instruments; supervision and inspection of the safety of boilers and pressure vessels; the surveying of ships, including offshore platforms, ship's main equipment, materials and containers; testing of aircraft airworthiness (including engines, carried-on-board equipment) and the safety testing of nuclear pressure-bearing equipment.
The list of products subject to compulsory inspection by the commodity inspection agency is drawn up by the State Administration. Following prevailing international practices, inspection of import and export products is carried out by statistical sampling or by inspecting a percentage of each consignment.

Article 6 of the above-mentioned law stipulates that in the absence of compulsory standards or inspection standards which must be complied with as provided for in laws or administrative rules and regulations, inspection shall be carried out in accordance with the agreed inspection standards contained in the foreign trade contract. In such cases, the inspection clause in the contract is the decisive basis for inspection on imports. Standards applied to imports are the same as those applied to like domestic products; they are not more stringent than those applied to domestic products.

In principle, the State Administration does not deny the importation of goods for quality reasons. The decision not to import goods for quality reasons is made by the importer who has concluded the contract with the exporter.

5. CHINA'S FOREIGN TRADE RELATIONS

5.1 Bilateral Trade and Payment Agreements

China has entered into bilateral trade agreements with over 130 countries and regions.

5.2 Goods Originating In or Destined for Hong Kong, Macao and Taiwan

For products originating in Hong Kong and Macao, Customs duties are applied at rates equivalent to the rates levied on goods originating in countries enjoying most-favoured-nation treatment. The Tariff Commission decides which tariff treatment shall apply to products originating in Hong Kong and Macao after 1997 and 1999.

Quotas and licensing are applied to some products exported to Hong Kong and Macao, in particular fresh and frozen food products, live animals and poultry. Export quotas to Hong Kong and Macao are allocated under the export licensing system according to the market capacity of Hong Kong and Macao and the export capabilities of Chinese provinces, autonomous regions and municipalities.

Hong Kong and Macao Special Administrative Regions will continue to formulate their own economic and trade policies independently when China regains its sovereignty over Hong Kong and Macao in 1997 and 1999, respectively. In its Communique to the GATT Contracting Parties, the Chinese Government declared that after 1997 and 1999, Hong Kong and Macao will continue to undertake their obligations in GATT as separate customs territories and separate GATT contracting parties. The tariff bindings which Hong Kong and Macao have entered into will not be affected.
Taiwan is part of China's territory. For historical reasons, there has been no direct economic exchange between China's mainland and Taiwan since the founding of the PRC. At present, there is no direct trade between China's mainland and Taiwan. The Customs duty is imposed on imports from Taiwan which are transshipped to China's mainland via third parties (mainly Hong Kong and Macao) in accordance with relevant laws and regulations.

5.3 Trade with Adjacent Countries

China's frontier provinces have border trade with Nepal, Burma, Pakistan, the former Soviet Union and the Democratic People's Republic of Korea. China considers that this trade between local residents at the border, both in the form of barter and cash payment, is of a small size. The goods traded are mostly of local manufacture and third-country currencies are generally not used for payment. In order to help the economic development of Tibet, a separate tariff with low duty rates was established for imports from any sources into Tibet but their use is confined to Tibet.

5.4 Rules of Origin

The "Provincial Regulations of the Customs Administration on the Origin of Imported Goods" provides that, if an imported product is processed and manufactured in several countries, the country of origin of the product shall be the last country in which the product underwent substantial processing. Substantial processing is understood to mean processing which results in a change of the four-digit level tariff classification or in an added value (including all cost-related expenditures) exceeding 30 per cent of the total value. These origin criteria are applicable to all imported products. The rules of origin applied for statistical purposes are the same. However, for statistical purposes, the Customs also records the countries of consumption and trading countries.

6. PUBLICATION AND ADMINISTRATION OF TRADE REGULATIONS

6.1 General Sources of Information

The following publications, among others, provide information on China's foreign trade system: "Almanac of Foreign Economic Relations and Trade" and "The Bulletin of MOFTEC" published by MOFTEC; "Statistical Yearbook of China", published by the State Statistical Bureau; "China's Customs Statistics", edited and published by the Customs General Administration.

The rules, regulations and orders of the State Council relating to foreign trade are all published. So are the regulations issued by ministries and commissions. Such laws and regulations are available in the "Bulletin of the State Council" and the "Collection of the Laws and Regulations of the People's Republic of China". The administrative regulations and directives relating to foreign trade are also published in various newspapers and periodicals.
6.2 Foreign Trade Plans

China publishes its five-year plan of national economic and social development, which includes the development programme for imports and exports. The five-year plan is published in newspapers. Annual, medium-term and long-term plans approved by the National People's Congress are also published, including targets of key sectors of national economic and social development.

China however does not publish its annual import and export plans nor modifications of these plans. The detailed targets established in the import and export plans are regarded as business secrets. The foreign exchange earning targets negotiated with the provinces and municipalities are also not published. The State Statistics Bureau publishes information concerning the implementation of the import and export plans, as well as the annual report of statistics.

6.3 Exchange Controls Affecting Importation and Exportation

Since the "Provisional Regulations for Foreign Exchange Control of the People's Republic of China" was promulgated in December 1980, China has published more than 20 specific rules implementing these regulations, such as the "Regulations for Foreign Exchange Concerning Foreign-Invested Enterprises, Foreign Banks and Non-Bank Financial Institutions" and the "Regulations for Monitoring External Debt and External Guarantees". These rules are published in the "Bulletin of the State Council".

6.4 Restrictions on Importation and Exportation

MOFTEC publishes its import and export regulations, as well as the quantity of products to be licensed for export, in the newspaper "International Business" on a timely basis. Changes in criteria for issuing import and export licenses are also published in "International Business", the "Bulletin of MOFTEC" and in the "Almanac of Foreign Economic Relations and Trade".

Import commodities restricted by the State are made public by MOFTEC, which readjusts import restrictions in a unified way in light of the availability of foreign exchange and changes in domestic production and market conditions. These adjustments are duly made public in the "Bulletin of MOFTEC" and the "Almanac of Foreign Economic Relations and Trade".

6.5 Customs Tariffs and Other Charges on Importation and Exportation

China's customs laws and regulations, import and export duty rates, and customs procedures are published in the "Bulletin of the State Council" and in the press, and are available upon request. The procedures concerning the application of duty rates, customs value and duty determination, draw-back and duty recovery, as well as the procedures concerning duty exemptions and reduction, are also published.
The State Statistics Bureau publishes quarterly customs statistics, calculated according to country of origin and consumption. The Customs General Administration publishes trade figures on the basis of eight-digit H.S. headings. The "Regulation on Import and Export Duties" provides that in the case of disputes over tariff classifications or customs valuation, the duty payer can demand a re-examination of the matter by the local Customs office and, if the matter cannot be resolved in this way, can appeal to the Customs General Administration and, finally, to the People's Court.

6.6 Internal Taxes and Regulations

The rules and regulations applied by the China Import and Export Commodity Inspection Corporation and the Quality Administration are published in the press and are available on request. The list of products subject to compulsory inspection is published by the State Administration.

6.7 Governmental Agreements Affecting Trade Policy

The bilateral trade agreements referenced in Section 5.1 above and protocols on the exchange of goods negotiated under them are published in "The Treaty Series of the People's Republic of China".

6.8 Enterprises Engaged in Foreign Trade

The "Directory of China's Foreign Economic Relations and Trade Enterprises" and "China's Foreign Trade Corporations and Organizations" are two publications which identify the foreign trade corporations and other enterprises in China engaged in foreign trade. The "Directory", compiled by MOFTEC, is published in English.

7. CHINA'S FOREIGN TRADE REGIME AND THE GATT

China originally assumed contracting party status by accepting the Protocol of Provisional Application, dated 30 October 1947. China requests the resumption of its original membership but declares itself ready to negotiate the rights and obligations resulting from its resumption. The Protocol of Provisional Application exempts measures taken pursuant to mandatory legislation in force on 30 October 1947 from the obligations under Part II of the General Agreement. China requests that the date relevant for the existing legislation clause in the protocol on China's status as a contracting party be the date of that protocol rather than 30 October 1947. The Chinese authorities explain these requests as follows: The founding of the People's Republic of China in 1949 did not alter China's status as a subject of international law. The deposed Chiang-kai Shek regime ceased to represent China as from 1 October 1949. The withdrawal from GATT in the name of China by the authority in Taiwan in
1950 was therefore not legally valid. The United Nations, in a Resolution adopted in October 1971, recognized the representatives of the Government of the People's Republic of China as the only legitimate representatives of China, and the GATT, on the understanding that it should generally follow decisions of the United Nations on essentially political matters, expelled the observer from Taiwan in November 1971. For these reasons, China is both legally and politically justified in requesting a resumption of its original membership. However, given the considerable changes that have taken place during the suspension of China's relations with the GATT and given China's readiness to negotiate the substantive rights and obligations, a non-retroactive approach to the changes during the period of suspension is appropriate in the interest of the contracting parties concerned.

The Chinese authorities consider that China has at present an adequate basis and full capability to comply with GATT obligations and to exercise GATT rights, and that a commitment to a time schedule for the accomplishment of economic reforms is therefore not needed.

All foreign trade corporations have become independent economic entities responsible for their own profits and losses and have full autonomy in their management. Foreign trade corporations given exclusive rights to import particular products operate on commercial considerations and on the basis of non-discrimination and therefore in conformity with Article XVII of the General Agreement.

China is a member of the International Monetary Fund and is availing itself of the transitional provisions of Article XIV of the Fund's Articles of Agreement. China considers its system of exchange controls to be consistent with the Fund’s Articles of Agreement and consequently covered by Article XV:9 of the General Agreement.

The Chinese authorities consider the non-publication of the annual import and export plans to be consistent with Article X of the General Agreement because these plans contain confidential commercial information, the disclosure of which would prejudice the legitimate commercial interests of the State and the enterprises concerned.

The Chinese authorities have indicated China's intention to join the Anti-Dumping, Subsidies, Customs Valuation and Import Licensing Agreements and the Agreement on Technical Barriers to Trade.

According to Chinese Law (Article 142 of the General Principles of Civil Laws, Article 6 of the Laws on Economic Contracts with Foreign Counterparts), all international treaties are part of the domestic law. If there is a conflict between domestic law and the provisions of an international treaty, the provisions of the international treaty shall be applied unless the provisions are those on which the People's Republic of China has announced reservations. As stipulated in the Constitution of
the People's Republic of China (Article 67), the Standing Committee of the People's Congress of China has the power to alter or annul those local regulations or decisions of the organs of state power of provinces, autonomous regions and municipalities directly under the Central Government that contravene the Constitution, the laws, administrative rules or regulations of the Central Government. The constitution also authorizes the State Council to alter or annul inappropriate decisions and orders issued by local organs of State administration at various levels (Article 89). The Chinese authorities are of the view that these features of the Chinese legal system will ensure an effective and uniform implementation of the obligations resulting from China's resumption of GATT contracting party status.