



INSOL International

Wuxi Suntech Power Co., Ltd: The First PRC Reorganisation Involving Shareholders Subject to Foreign Insolvency Proceedings

Case Study Series - 7

Wuxi Suntech Power Co., Ltd: The First PRC Reorganisation Involving Shareholders Subject to Foreign Insolvency Proceedings

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Acknowledgement

INSOL International is pleased to present the 7th case study titled "*Wuxi Suntech Power Co., Ltd: The First PRC Reorganisation Involving Shareholders Subject to Foreign Insolvency Proceedings*" by Alan CW Tang and Christina LM Lam, both from SHINEWING Specialist Advisory Services based in Hong Kong and China respectively.

Wuxi Suntec is the first ever non-State-owned PRC enterprise listed on the New York Stock Exchange. One year before Wuxi Suntec collapsed, in 2012, it was the world's largest solar photovoltaic technology company. At the time of its collapse it had foreign debts in excess of US\$500,000,000 and local debts of approximately RMB10,000,000,000.

Two months after the Wuxi Suntec Power Group was put to the restructuring process under the PRC Bankruptcy Law, Professor Li Shuguang published an article in May 2013 "No non-sense please - Government, Banks and the Court - in the Wuxi Suntec Power Case". In this article, Professor Li highlighted the need for the Government, banks and the Court to stay with the market-led commercial principles in this major cross-border restructuring case. He also emphasised the need to engage suitably qualified insolvency / restructuring professionals in the process.

Judicial and legal circles see the Wuxi Suntec case as a test case for the PRC Bankruptcy Law, and in particular its cross-border aspects. This study explains the case details and concludes with useful comments by Professor Li Shuguang.

INSOL International thanks Mr. Alan C W Tang and Ms. Christina L M Lam for taking the time to prepare this excellent study which we hope our members will find very interesting.

May 2016

Wuxi Suntech Power Co., Ltd: The First PRC Reorganisation Involving Shareholders Subject to Foreign Insolvency Proceedings

By

Alan CW Tang*, Head of SHINEWING Specialist Advisory Services, Hong Kong and a former Director of INSOL International & Christina LM Lam, Director of SHINEWING Specialist Advisory Services, Beijing.

A. Case name and date of decision

Case name: Wuxi Suntech Power Co., Ltd. (无锡尚德太阳能电力有限公司) (“Wuxi Suntech”)

Date of Decision: Reorganisation plan of Wuxi Suntech was approved on 15 November 2013.

B. Court location and jurisdiction

Wuxi Intermediate People's Court approved the reorganisation plan of Wuxi Suntech.

C. Judge's name

Presiding Judge Jiang Xin Ye, a judge of Wuxi Intermediate People's Court, who has been handling bankruptcy cases since 2008; Judge Zhang Hao and Judge Lu Qiao Yin.

D. Background summary

Wuxi Suntech is the first major PRC privately owned enterprise having been reorganised under the PRC Enterprise Bankruptcy Law (“the EBL”) with its immediate and ultimate holding companies and fellow associate companies within the group being also subject to insolvency proceedings in overseas jurisdictions.

The issues emanating from the reorganisation process of Wuxi Suntech both from the onshore (i.e. PRC) and offshore (i.e. outside of the PRC) perspectives are worthwhile to note, particularly when certain “controversial” provisions of the EBL for dealing with shareholder “cramp-down” and cross-border issues have been put to application in this case. This is a case demonstrating how the PRC reorganisation process is applicable to scenarios involving but effectively completely ignoring non PRC-based international lender groups, which have no claims directly against the onshore entities. The typical and traditional cross-border lending but with obvious security mismatch is vividly displayed (again) in this case.

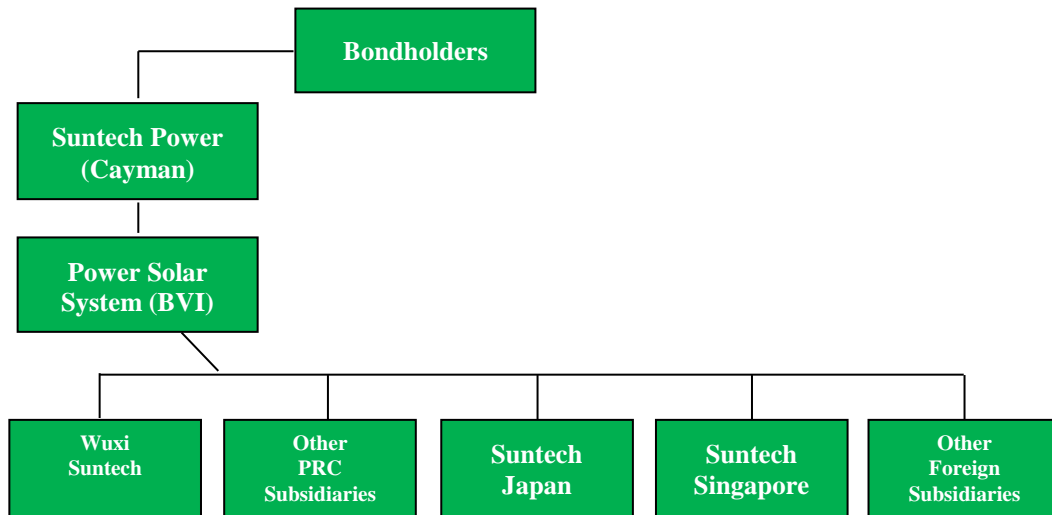
E. Procedural history

Wuxi Suntech was established by Mr. Xi Zheng Rong (known to many as the Father of Photovoltaic in China), with strong support from the Wuxi City Government (Jiangsu Province), as a sino-foreign joint venture on 22 January 2001. Seven corporate shareholders (including one Australia Solar Energy Systems Limited) started with a registered capital of US\$299.2 million. In 2005, Suntech Power Holdings Co Ltd., a Cayman Islands incorporated company (“Suntech Holdings”) via its wholly-owned subsidiary incorporated in the British Virgin Islands (the “BVI”), namely Power Solar System Co Ltd (“PSS”), acquired all the equity shareholding interests in Wuxi Suntech. Wuxi Suntech then became the biggest operating subsidiary of the Suntech group of companies (the “Suntech Group”), accounting for 95% of its production capacities. The main operations of the Suntech Group are the manufacturing of photovoltaic panels and cells in Wuxi and other parts of the PRC, employing at one stage over 20,000 staff and workers worldwide.

Suntech Holdings was listed in the New York Stock Exchange in December 2005, with stock code STPFQ, and an issuing market value of US\$2,175 million, reaching a peak market

* The views expressed in this article are the views of the authors and not of INSOL International, London.

capitalisation at US\$16 billion in 2007 when the share price was as high as US\$85 (as compared to less than US\$0.6 in 2012). Through its international subsidiaries in Switzerland, Germany, Italy, Australia, the US, Thailand, Singapore, Japan and China etc., Suntech Holdings has since delivered more than 25 million photovoltaic panels to over a thousand customers in more than 80 countries. In 2012, the Suntech Group was reported as the largest supplier of photovoltaic panel and solar module worldwide. A simplified group chart of the Suntec Group just prior to its demise in 2012 is depicted below:



Decline in market demands for solar products from around 2010 internationally caused significant financial difficulties to the Suntech Group (and others too). On 15 March 2013, reportedly then as the first ever major international default by a PRC-owned enterprise, Suntech Holdings failed to redeem its US 5-year 3% Convertible Senior Notes (the “Notes”) for US\$541 million. The note-holders, after signing a forbearance agreement, agreed to defer the repayment to 28 June 2013 (and eventually to 30 August 2013) and started to negotiate the restructuring of Suntech Holdings.

In June 2013, however, one dissenting note-holder, Trondheim Capital Partners (“TCP”), filed for Suntech Holding’s Chapter 7 liquidation under the US Bankruptcy Code; this petition was dismissed. In October 2013, a group of four note-holders including TCP collectively holding about US\$1.6 million of Suntech Holdings’s notes filed a new petition in New York for involuntary bankruptcy of Suntech Holdings under Chapter 7. Apparently as an attempt to pre-empt any Chapter 7 ruling in the US, joint provisional liquidators (the “JPLs”) of Suntech Holdings were appointed by the Grand Court of the Cayman Islands on 7 November 2013. This was possible as the JPLs could then file for protection under Chapter 15 of the US Bankruptcy Code (as opposed to facing a Chapter 7 liquidation).

In January 2014, a Restructuring Support Agreement was signed with the petitioners, Suntech Holdings and its JPLs together with certain supporting note-holders to stay the Chapter 7 proceedings. On 25 February 2014, the JPLs of Suntech Holdings filed for Chapter 15 protection in New York for the purpose of allowing the restructuring of Suntech Holdings under the auspices of the Cayman Court and to protect Suntech Holding’s assets in the US from piecemeal attacks by individual creditors. Suntech Holdings listed over US\$1 billion in both assets and liabilities and between 100 and 199 creditors in its application for Chapter 15 protection. Despite bitter opposition from some California-based creditors alleging “manipulation” of the Center of Main Interest (“COMI”) from the PRC to the Cayman Islands and forum shopping, the New York Court granted the Chapter 15 protection in November 2014, citing jurisdiction on the basis of a bank account opened in New York by the JPLs.

Shortly after the appointment of JPLs to Suntech Holdings in November 2013, the sole shareholder of PSS (i.e. Suntech Holdings acting by its JPLs) passed a resolution to place PSS

into liquidation pursuant to the Insolvency Act of the BVI and to appoint liquidators (“liquidators”) to PSS.

Across the Pacific, and going back 8 months, counting only 3 days after default of Suntech Holdings to pay its bondholders on 15 March 2013, and in an obvious attempt to ring-fence its local assets from these “foreign” bond holders, Wuxi Suntech filed for reorganisation under Chapter 8 of the PRC EBL on 18 March 2013. Wuxi Suntech, the principal operating subsidiary of the Suntech Group in Asia, had reportedly incurred net losses of RMB1,690 million for 2011 and a further RMB13,410 million in 2012. In March 2013, apart from total credit exposures to nine PRC banks amounting to RMB7,100 million, Wuxi Suntech was faced with short term debts in the sum of approximately RMB1,000 million and also contingent liabilities under guarantee for approximately RMB2,000 million. With such financial turmoil of Wuxi Suntech, a creditors’ committee comprising eight banks in the PRC applied to the Wuxi Intermediate People’s Court for reorganisation of Wuxi Suntech on 18 March 2013. Wuxi Intermediate People’s Court agreed to accept the application and established a “liquidation committee” of Wuxi Suntech to act as its administrator (the “Administrator”) on 20 March 2013.

Interestingly one of the immediate actions taken by the Administrator was to procure another Government-owned enterprise, Wuxi Guolian, to send in their CEO, a Mr. Zhou Weiping to be the new CEO of Wuxi Suntech, to be followed by the issue of new / replacement warranty guarantees by Wuxi Guolian (for Wuxi Suntech) to the end-customers of Suntech America Inc. Suntech was effectively run and managed by Wuxi Guolian during the “interim” period when negotiations to find new investors took place.

According to a valuation as arranged by the Administrator as at 20 March 2013, total assets of Wuxi Suntech amounted to RMB10,384 million. Possible total creditor claims amounted to RMB10,828 million, representing claims acknowledged by the Wuxi Intermediate People’s Court of RMB9,464 million, claims subject to on-going legal disputes for RMB36 million and other recorded (but then un-submitted) claims totaling RMB1,328 million. None of the “foreign” note-holder claims were “recognised” / registered as they were not liabilities of Wuxi Suntech (but were and remained claims against the offshore entities only).

The Wuxi Intermediate People’s Court convened the first creditors’ meeting on 22 May 2013. For the purpose of this meeting, 529 creditors submitted total claims amounting to RMB17,000 million, which included both local and overseas creditors. A creditors’ committee comprising seven members (i.e. representatives from three bank creditors, two suppliers, labour union and tax bureau) was formed. Various potential “white knights” locally and from abroad were engaged in negotiations for possible reorganisation of Wuxi Suntech. These reorganisation negotiations were conducted by the Administrator practically without reference to the JPLs of Suntech Holdings or the Liquidators of PSS. On 24 October 2013, a conditional reorganisation agreement was signed with a new investor.

Meanwhile, in Europe, the Italian Court seized 37 solar power stations of Suntech Holdings in September 2013 and a further 10 in October 2013 to protect creditors. It is obvious that on an international basis, local creditors were keen to enforce their rights / securities to protect their own positions.

On 12 November 2013, a reorganisation plan was tabled at the second creditors’ meeting of Wuxi Suntech. The key components of the reorganisation plan included the transfer of 100% of the equity shareholding in Wuxi Suntech to a new investor, assignment of debts and cash repayments to creditors (see details below). All classes of creditors voted and approved the reorganisation plan during this second meeting, with the exception of one class – the sole shareholder. Yet, the Wuxi Intermediate People’s Court approved the reorganisation plan on 15 November 2013 (see copy Court Order in Chinese attached – relevant parts of this Order will be discussed later).

It should be noted that, PSS as the 100% equity shareholder of Wuxi Suntech acting by its then liquidators, did not participate in the voting on 12 November 2013, resulting in an apparent failure to meet the requirements as specified in the reorganisation plan (i.e. with approval of all classes of stakeholders concerned). However, the Wuxi Intermediate People’s Court

considered that, given the insolvency of Wuxi Suntech, the value of its equity shareholding was zero. Further, the adjustments for and transfer of 100% equity shareholding interests in Wuxi Suntech to a new investor as proposed in the reorganisation plan was just and fair and that the proposed terms for the reorganisation plan were generally operationally viable and feasible. Pursuant to Article 87 of the EBL (as expressly referred to in the Order), the Wuxi Intermediate People's Court approved the reorganisation plan on 15 November 2013, despite the lack of approval from PSS.

Under Article 87 of the EBL, the Court may “cramp down” a reorganisation plan even if the requisite approval (i.e. a majority in number with at least two-thirds of the corresponding claims / rights voting) is not obtained from all classes of creditors / stakeholders provided that:

- rights of secured creditors are not prejudiced;
- rights of government claims (e.g. tax, social security contributions etc.) are not prejudiced;
- return to unsecured creditors in reorganisation is expected to exceed that from bankruptcy liquidation;
- adjustment of rights of shareholders is considered fair and equitable;
- rights of individual creditors of the same class are not prejudiced and in compliance with the order of creditors' ranking generally in Article 113; and
- the reorganisation plan is “workable”.

It is noted that the PRC judiciary is generally relatively reluctant to invoke the powers afforded to them under Article 87, even in “domestic” cases. Thus, invoking and applying these provisions to Wuxi Suntech involving one single “foreign” shareholder was probably a pioneering and ground-breaking case at the time.

The eventual successful bidder, the new investor, is Jiangsu Shunfeng Photovoltaic Technology Co. Ltd., a 100%-owned subsidiary of Hong Kong listed Shunfeng Photovoltaic International Limited, based in Changzhou, the PRC.

F. Main parties involved

Petitioner : Creditors' committee comprising eight major banks in the PRC

Debtor : Wuxi Suntech Power Co., Ltd. (无锡尚德太阳能电力有限公司)

Ultimate holding company of the Debtor : Suntech Power Holdings Co Ltd (in liquidation) – Cayman Islands

Immediate holding company of the Debtor : Power Solar System Co Ltd (In Liquidation) - BVI

Major fellow subsidiaries of the Debtor : Suntech Power Japan Corporation and Suntech Power Investments Pte, Ltd

New investor for Wuxi Suntech : Shunfeng Photovoltaic International Ltd HKSE Code 01165) via wholly-owned subsidiary Jiangsu Shunfeng Photovoltaic Technology Co. Limited (“Shunfeng”)

G. Key issues identified

1. Major terms for the Reorganisation Plan include the involuntary transfer of all existing equity shares to Shunfeng, injection of cash for repayment to creditors, and streamlining management and operations.

Shunfeng agreed to inject RMB3 billion (US\$494 million equivalent) cash to Wuxi Suntech to repay all classes of creditors within 40 days after the reorganisation plan was approved and to make further investments of not less than RMB3 billion for technology innovation and capital expansion in the ensuing two years. As a listed company in Hong Kong, Shunfeng's parent company financed its initial RMB3 billion rescue funds by issuing convertible bonds in the market.

Key operative and repayment terms for different classes of creditors under the reorganisation plan are summarised in Table 1 below. Employees' claims and government taxes are settled in full by cash. Secured creditors have priority to receive cash repayment to the extent (100%) of the assessed value of their respective securities. Any shortfall in repayment to individual secured creditors is classified as unsecured claims (and "repaid" accordingly). Repayment to unsecured creditors is 31.55% (as compared to an estimated 14.82% dividend if Wuxi Suntech went into liquidation).

Table 1

Type of creditor	No. of creditors	Total amount of known claims (RMB million)	Percentage of recovery
Employees	2	0.16	100% settled in full by cash
Local Taxes	1	43.75	100% settled in full by cash
Secured	4	79.75	a) for one creditor, cash for RMB68.64 million (100% repayment) in exchange for release of pledged assets with surplus equity; and b) for 3 creditors, they were paid an aggregate of RMB4.9 in cash for release of the respective pledged assets; with an aggregate shortfall of RMB 6.11 million to be repaid under unsecured claims
Unsecured	546	9,340.54	a) 100% repayment in cash for individual claims at or under RMB100,000; b) For claims in excess of RMB100,000:- (i) cash payment of 31.55% in 40 days; or (ii) cash payment of 30.85% in 40 days plus a further 0.94% distribution in 3 months from recoveries from 9 accounts receivable of Wuxi Suntech (final recovery rate at 31.79%)
Total	553	9,464.20	

Major creditors of Wuxi Suntech comprise domestic banks and suppliers as well as major foreign suppliers such as OCI Company Limited (a South Korea polysilicon supplier) and Hemlock Semiconductor (a US polycrystalline silicon supplier) which filed aggregate claims

of US\$65.5 million against Wuxi Suntech. There was no differentiation between local and foreign creditors in the reorganisation plan.

For unsecured creditors with claims which were either subject to on-going legal disputes or had not yet been submitted for adjudication, they would still be entitled to receive cash at a rate of 31.55% if and when their claims were duly adjudicated by the Court.

For liabilities arising from guarantees / warranties given by Wuxi Suntech, 3 such guarantees had “matured” by the time of the reorganisation. These claims totalling RMB245 million were treated as unsecured claims. Provisions and cash reserves were maintained for another 3 guarantees / 1 warranty totalling another RMB812 million, which had not yet matured.

It is interesting to note that, overall, total restructuring costs add up to just RMB26 million (less than 0.5% of total debt) as follows:-

Fees / costs	RMB'000
Court	300
Administrator	3,500
Audit	2,200
Valuation	6,000
Legal	8,000
Financial	6,000
Total	26,000

2. Limited scope co-operation between Wuxi Suntech, Suntech Holdings and PSS

Although PSS's 100% shareholding investment in Wuxi Suntech had effectively been forfeited without consent from its liquidators or the JPLs of Suntech Holdings, the parties agreed to limited scope co-operation in April 2014 to ensure that all parties secure their respective maximum benefit under the circumstances. These arrangements included:

- Suntech Holdings permitting Wuxi Suntech to continue to use certain product certificates and licences;
- Suntech holdings and its associates in the US and Europe to continue to work (on a commission basis) as intermediaries / distributing agents for products of Wuxi Suntech;
- Suntech Holdings and its associates in the US and Europe to continue to provide after-sales services for products of Wuxi Suntech; and
- Wuxi Suntech to support the then restructuring of Suntech Power International Limited, the major operational unit of Suntech Power in Europe, under Swiss law (and eventually also Suntech America Inc in the US).

3. Challenges in respect of operations transferred to Wuxi Suntech before its reorganisation

On 15 May 2013, Wuxi Suntech announced it had effectively acquired all equity interests in Suntech Power Japan Corporation (“Suntech Japan”) and Suntech Power Investments Pte, Ltd (“Suntech Singapore”). PSS (then still under control of its own management) reportedly agreed to transfer to Wuxi Suntech these equity interests in satisfaction of certain intra-group debt due by Suntech Japan (US\$100 million) and by Suntech Singapore (US\$70 million) to Wuxi Suntech respectively. Suntech Japan was a relatively small selling unit in Japan, whereas Suntech Singapore effectively operated a number of production plants in various parts of the PRC.

The JPLs of Suntech Holdings and the liquidators of PSS subsequently announced on 14 November 2013 that they would investigate these transfers. Given the huge debts owing and the problems and disputes involving Suntech Singapore, including a judgment debt

obtained by default from the Singapore High Court on 27 January 2014 for US\$263 million by PSS, Wuxi Suntech disposed of its equity interests in Suntech Singapore on 12 February 2014 and Suntech Singapore did not become part of the reorganised businesses sold to Shunfeng. Suntech Japan, however, formed part of the reorganised business sold to Shunfeng.

4. Tax concession for reorganisation

It has always been a major “after-the-event” problem when it comes to the tax implications of the reorganised business “receiving” huge benefits when creditors agree to waive a substantial portion of their claims. There have been strong debates in academic and business circles on whether the reorganised business should be “forced” by the Tax Bureau to pay massive income / profits tax on such “savings” from the waiver of creditor claims, out of the often still weak cashflows.

The “Reorganisation Plan” as approved by the Wuxi Intermediate People’s Court made an express provision to specify that any such “benefits” from waiver of creditor claims are to be set-off against the reduction in value of assets as part of the reorganisation, thus giving clear guidance on this hitherto ambiguous issue and minimising any tax exposure as a result of the reorganisation. This is an ingenious and convenient way of dealing with the tax implications of reorganisation and it is expected that this practice will be followed in other cases.

H. Comment on issues

1. The Wuxi Suntech reorganisation ending with practically no direct involvement of both its foreign parent holding companies and the ultimate foreign note-holders is something not uncommon in many recent PRC reorganisation / bankruptcy cases. There may be suggestions of some degree of “unfairness”, but what is “fair” and “unfair” is often more a legal than commercial issue. This is more so in the arena of cross-border insolvency. The fact that creditors of off-shore entities of the Suntech Group having no recourse to Wuxi Suntech is not something out of design at the time of reorganisation of Wuxi Suntech. When these creditors and note-holders agreed to take up the Notes (in 2008), they knew from Day 1 their rights and exposures. They knew they would not have direct recourse or “access” to the assets of the operating subsidiary, Wuxi Suntech.

With hind-sight, these off-shore creditors ought to have negotiated and demanded (as part of the funding negotiations before providing the funding) terms and conditions to have security directly over and in assets (not just shareholding interests) of the major operating subsidiaries of Suntech Holdings, including possibly express negative pledges that no subsequent “on-shore” secured borrowing would be allowed without approval from these off-shore lenders. The validity and enforceability of these securities and negative pledges to overseas lenders may be subject to foreign exchange control as well as PRC government approval requirements to begin with – but this is something foreign lenders should note and try to explore.

2. The fact that consent from PSS was not required for the involuntary transfer of 100% of its equity shareholding interests in Wuxi Suntech to Shunfeng might have been another shock to many. However, the Wuxi Intermediate People’s Court made the ruling based on apparently proper and solid legal basis in the form of Article 87 of the EBL. After all, ownership (and operations) of any PRC enterprise is governed by PRC laws as determined by PRC courts. It is to be noted that similar “cramp-down” provisions and practices are also found in many western jurisdictions.
3. Professor Li Shuguang (“Professor Li”) of the China University of Politics and Law published an article titled *“No messing around with the reorganisation of Wuxi Suntech”* on 9 May 2013, around six weeks after acceptance of the application of bankruptcy reorganisation by the Wuxi Court. This immediately caught top attention of practitioners in the PRC bankruptcy / reorganisation circles. In a nutshell, Professor Li observed that the existing provisions under the EBL might face a number of new challenges when dealing with the

bankruptcy reorganisation of Wuxi Suntech; and the local government, court and bank creditors should not “mess around” with the reorganisation – this was a very bold statement to make at the time.

4. These new challenges would include:

- (i) how to deal with simultaneously the reorganisation of a PRC operating major subsidiary and its overseas parents which are also in insolvency proceedings;
- (ii) adequate protections to both local and international stakeholders;
- (iii) issues concerning pre-reorganisation transfers of intra-group interests among related parties (including major shareholders’ personal / family operations); and
- (iv) maintaining proper monitoring and supervisory roles of the local government and judicial roles of the court in the context of truly market operating forces and considerations.

In summary, Professor Li considered these new challenges to be areas for development in the effective handling of simultaneous bankruptcy or restructuring of group companies subject to various jurisdictions, whether overseas or in the PRC.

As to the warning of “messaging around”, Professor Li suggested that:

- (a) in the context of local government, although government has certain social duties to “protect” local major business operations, it should not provide unlimited financial support (using public funds) to try to save failing Wuxi Suntech (as one amongst many others in the photovoltaic business throughout the country then);
- (b) in the context of banks, they should work on marketing lending principles with proper and independent assessment of market / lending risks of the borrowing entity, rather than just following local government “instructions” to channel funds to designated businesses regardless of their risk profile and market performances; and
- (c) in the context of court / judiciary, suitably qualified and experienced judges should be assigned to handle the Wuxi Suntech reorganisation, and appointing a team of suitably professionally qualified personnel to join the “liquidation committee” to lead the reorganisation – as opposed to the court just “following” the directions of the local government.

In conclusion, Professor Li suggested further that the collapse of Wuxi Suntech should not be viewed totally from the “negative” perspective. Instead, if one believes in the market economy forces, the reorganisation of Wuxi Suntech might see its revival in future. We agree with the views expressed by Professor Li.

I. Two years down the road

When the reorganisation plan was proposed in 2013, it forecasted production (sales) of 1.5 GW in 2014 and 2.5GW in 2015 (as compared to a peak 2.4GW in 2012). In the Annual Report of Shunfeng for 2014, it reported an increase in revenue of 275%, in gross profit of 700% and a “turnaround” of net loss of HK\$1.8 billion to net profit of HK\$1.3 billion.

Total work force in August 2015 was approximately around 4,000.

江苏省无锡市中级人民法院

民事裁定书

(2013)锡破字第5-2号

申请人无锡尚德太阳能电力有限公司管理人，住所地江苏省无锡国家高新技术产业开发区新华路12号创业大厦。

2013年11月14日，无锡尚德太阳能电力有限公司（以下简称无锡尚德公司）管理人向本院提出申请，称无锡尚德公司职工债权组、税收债权组、担保债权组和普通债权组均表决通过了《重整计划草案》，出资人在出资人组表决中虽然选择弃权，但《重整计划草案》符合《中华人民共和国企业破产法》规定的申请人民法院批准的条件，请求本院裁定批准其提交的《重整计划草案》。

本院认为：无锡尚德公司第二次债权人会议经过分组表决，职工债权组、税收债权组、担保债权组和普通债权组均已经通过《重整计划草案》，该《重整计划草案》对出资人权益的调整公平、公正，且《重整计划草案》中确定的无锡尚德公司的经营方案亦具有可行性。据此，依照《中华人民共和国企业破产法》第八十七条第二款、第三款之规定，裁定如下：

- 一、批准无锡尚德公司重整计划草案；
- 二、终止无锡尚德公司重整程序。

本裁定为终审裁定。

(此页无正文)

审 判 长 蒋馨叶
审 判 员 张 浩
审 判 员 陆晓燕



二〇一三年十一月十五日

本件与原本核对无异

书 记 员 卢志鹤

附：重整计划草案

Appendix B: Unofficial English translation of the court order

Translation of Order of Jiangsu Province Wuxi Municipal Intermediate People's Court dated 15 November 2013 confirming reorganization of Wuxi Suntech Power Co. Limited (contents only)

Applicant : Administrator of Wuxi Suntech Power Co. Limited (address etc.)

On 14 November 2013, the Administrator of Wuxi Suntech Power Co. Limited ("Wuxi Suntech") applied to this Court and reported the results of the class meetings of (i) employees; (ii) tax creditors; (iii) secured / guaranteed creditors and (iv) unsecured ordinary creditors all approving the "Draft Reorganisation Plan", and noting that the contributories (shareholders) abstained from (*translation note*: did not participate in) the voting; but the "Draft Reorganisation Plan" is compliant with the provisions of the Enterprise Bankruptcy Law for application for approval by the People's Court, and requested that this Court approve the "Draft Reorganisation Plan".

This Court is of the view that in the second meeting of creditors of Wuxi Suntech where creditors from the class groups of (i) employees; (ii) tax creditors; (iii) secured / guaranteed creditors and (iv) unsecured ordinary creditors have all approved the "Draft Reorganisation Plan"; and the adjustments to the shareholders' rights and interests proposed in this "Draft Reorganisation Plan" to be fair and just; and the proposals therein concerning the continued trading of Wuxi Suntech to be viable. As such, and based on the provisions of Articles 87 (2) and 87 (3) of the Enterprise Bankruptcy Law, this Court orders that:-

1. the Draft Reorganization Plan for Wuxi Suntech be approved; and
2. the reorganization process for Wuxi Suntech be terminated.

This order is the final order (*translation note*: not subject to appeal).

Names of presiding judge and two
other judges and court secretary etc.
(with Court seal)

Dated 15 November 2013

Encl. Draft Reorganisation Plan