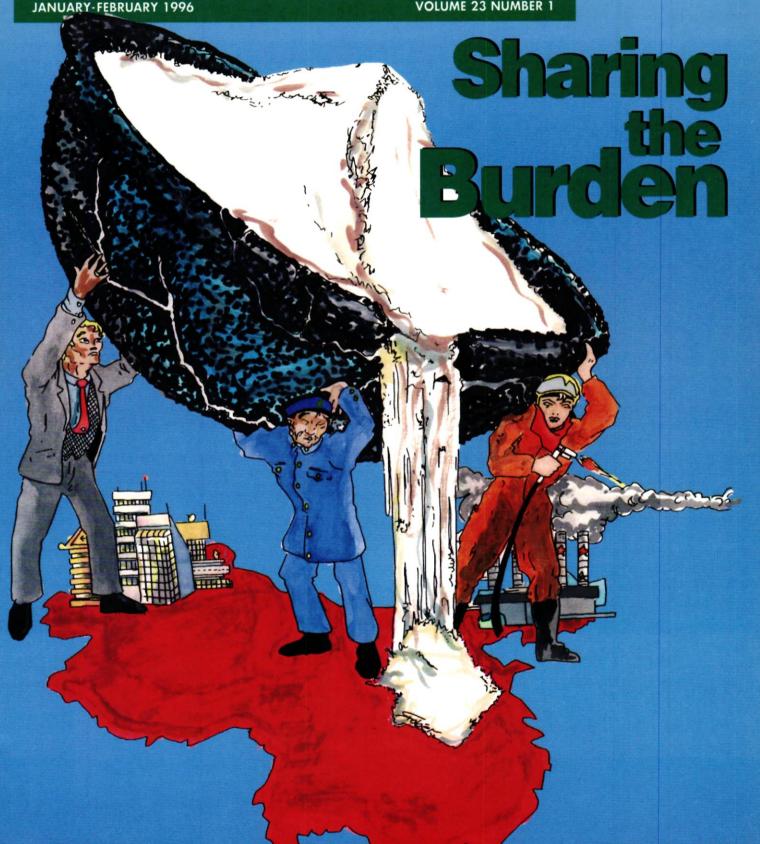
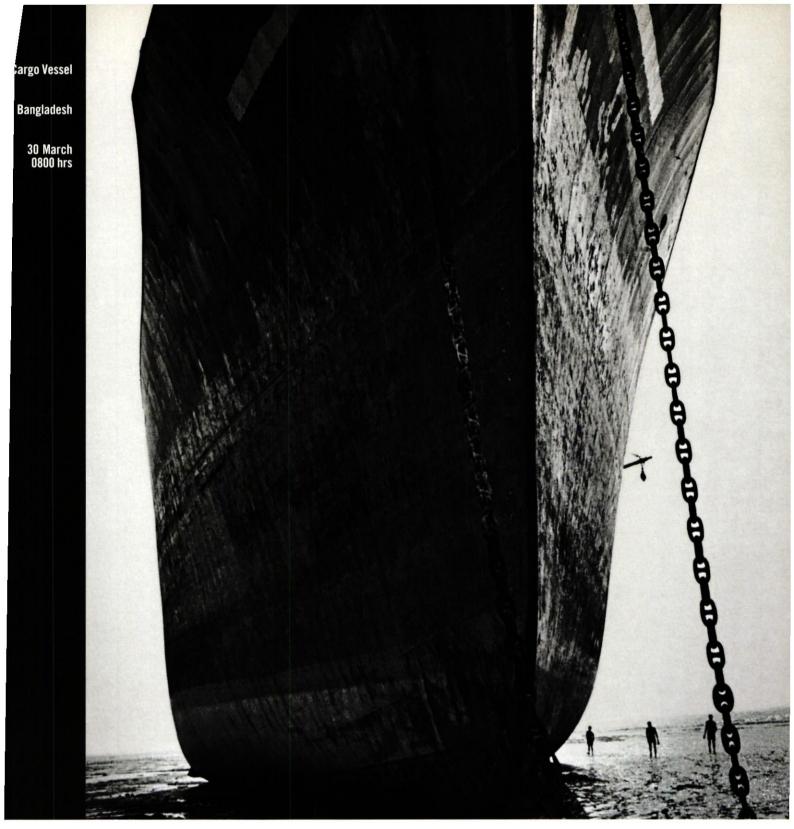
THECHINA BUSINESSREVIEW





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An Economic Truce—For Now

In contrast to Beijing's inconsistent attempts in 1994 to regulate credit, economic growth, and inflation, efforts in 1995 proved more successful. Beijing employed a tighter monetary policy last year to temper economic growth and usher in the long-awaited "soft landing." At the end of the third quarter, real GDP growth dipped below 10 percent for the first time in over five years, slowing to 9.8 percent. The retail price index rose by only 16 percent in the first 10 months of the year, helping keep the government's 1995 inflation target of 15 percent within reach. China's top priority in 1996 will be maintaining these growth and inflation levels. But without addressing a host of challenges from State-owned enterprise (SOE) reform to the implementation of additional administrative controls. Beijing could lose much of the progress made thus far.

By far the biggest roadblock to economic stability is SOE reform. Inflation-busting measures last year included higher interest rates, which exacerbated the credit crunch and plunged China's debt-burdened SOEs deeper into the red. The passage of banking reform laws aimed at transforming State banks into commercial banks also meant less funds were available for SOEs. Over 41 percent of SOEs were unprofitable in 1995, tallying more than \$5 billion in losses in the first nine months of the year—a 19 percent jump in losses over the same period in 1994.

By the third quarter, well along the path to achieving its economic stabilization objectives, Beijing announced that it would selectively relax credit controls to relieve the pressure on SOEs. The looser credit helped spur overall production: January-October industrial output was up 13.3 percent (on an annualized basis) over the same period in 1994. Once again, however, collective, private, and foreign-invested enterprises (FIEs) far outperformed SOEs.

Beijing also demonstrated a better ability this year to hold down inflation through administrative controls on the money supply. Growth in the amount of base money—cash in circulation and commercial bank reserves held by the central bank—and in the monetary aggregates M0, M1, and M2, had decreased substantially by October. A credit-quota management plan to set annual regional and national goals for credit growth helped tame inflation, together with an anti-profiteering law aimed at deterring speculative activities that had jacked up prices for grain and other agricultural products.

Real reform tasks like SOE reform loom ahead.

Despite these positive steps, many economists remain skeptical that China's monetary growth has stabilized. According to some experts, further reform of the banking sector and the implementation of indirect monetary policy instruments such as a rediscount rate and open market operations—in which treasury bonds are purchased and sold to manipulate money supply growth and control interest rates—are needed to ensure long-term economic stability.

China watchers also saw continued currency reforms in 1995 aimed at accelerating the country's marketization and bringing China's economy in line with international standards. Vice Premier Zhu Rongji and People's Bank of China (PBOC) Governor Dai Xianglong announced one significant step toward full renminbi convertibility, relaying the intention of central planners to establish a unified, national money market system early this year. Such a money market would lead to increased market liquidity by combining the swap markets used by FIEs with the interbank market used for transactions among Chinese firms.

Meanwhile, tax reform attempts stumbled due to inadequate collection efforts. By the end of October 1995, tax officials in 14 provinces had collected less than 75 percent of their revenue goals; bureaucrats in other provinces had met less than half of their collection targets. Tax officials also report that more than ¥23 billion in tax receipts owed to the central government—including 80 percent of VAT receipts—were still unpaid as of November 1.

With inflation under control for the moment, though, analysts are cautiously optimistic about the Chinese economy. The latest projections suggest that GDP growth will remain under control in 1996, perhaps around 10 percent. PBOC Governor Dai and some foreign banking analysts predict that inflation could drop to 10 percent by year's end if Beijing can continue to hold its tight monetary line. As always, though, the government's failure to move forward on its commitment to reform SOEs poses a threat to this positive outlook. Efforts at restructuring SOEs, including plenary discussions on how to speed up the reform process, the installation of oversight boards to monitor the finances and management of assets at 1,000 SOEs, and experimental measures to allow some small SOEs to go bankrupt, have not gone far enough. Beijing has avoided privatizing the largest SOEs, fearing massive unemployment and political instability as neither the economy nor the State's social welfare system is yet developed enough to absorb millions of displaced workers.

Real reform tasks loom ahead as Beijing struggles to find a formula for less painful SOE privatization. Central planners should be aware that failure to put these fundamental problems on the front burner in 1996 could have dire consequences: without the necessary structural mechanisms in place, the PRC's economic brain trust may find itself back to square one—trying again to slay the inflation dragon.

-TLK

SHORT TAKES

An Economy of Distinction

The Washington, DC-based Heritage Foundation has named Hong Kong the world's "freest" economy in terms of freedom from government intervention. On a scale of one (freest) to five (least free), Hong Kong obtained a 1.25 ranking, placing it ahead of second-ranked Singapore (1.30) and the seventh-ranked United States (1.95). Though it tied with Hong Kong last year for first place, Singapore scored lower this year because its government requires all employers to provide employee pension programs.

In awarding the colony the distinction, Heritage noted that the Hong Kong government does not interfere in the marketplace, taxes are low and predictable, government spending increases are closely linked to economic growth, and regulations are applied uniformly and consistently. Hong Kong Governor Christopher Patten, commenting on the Heritage analysis, attributed the colony's success to "economic policies operating within the rule of law in a free and open market." The Heritage Foundation index measures government interference in economic affairs according to 10 criteria, including policies on trade, taxation, foreign investment, and the money supply.



Sears Tower, Move Over

Forest Overseas Co. Ltd., a Japanese property development company, has announced plans to build the world's tallest building in Shanghai. The construction of the Shanghai World Financial Center will start at the end of 1996 and be completed in 2001. The building will stand 460 meters high, nudging out both the 443-m Sears Tower in Chicago and the 452-m KLCC Twin Towers currently under construction in Malaysia. Total project costs for the Shanghai skyscraper are estimated at \$743 million, of which Forest will provide 30 percent.

Standing Down Developers

On November 20, the central leadership compound, Zhongnanhai, was the site of a demonstration by about 100 angry Beijing residents rallying against the planned acquisition of their apartments by a real estate developer. Police arrested many of the protesters, who were then forced to promise not to engage in such acts again. The protesters claimed that the price developers plan to pay for the properties is extremely low given the eventual sales price for the new properties. Throughout Beijing and other large Chinese cities, property development has pushed real estate prices up, forcing many city dwellers to the outer suburbs.

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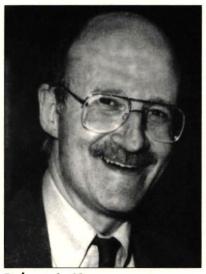
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LETTER FROM THE PRESIDENT



Robert A. Kapp

The Waiting Game

Old challenges in US-China relations follow us into the new year o long, 1995. I won't be sorry to see you go. You were a good year for the US-China Business Council, to be sure. We've never been more vigorous and we've seen very solid growth in US-China business. The new year portends more of the same: continued strength in the US and Chinese economies and substantial growth possibilities for US businesses in China in a wide range of fields. Still, you brought your share of problems, and 1996 may bring additional difficulties. A rundown of the good and the bad news brings the situation into focus.

The year in review

We can breathe sighs of relief that US-China relations have edged away from the brink of catastrophe which they approached in the summer of 1995. But we are not out of the woods. The wild card of Taiwan's political life, including upcoming presidential elections there, is but one factor that makes confident prediction of US-China relations in 1996 particularly tough.

We can reminisce fondly about the nail-biting but successful conclusion to the intellectual property rights struggles of last winter, only to recognize that we're back at the mat 10 months later over the perceived failure of the PRC to enforce the agreement in full.

We can be thankful that the Harry Wu incident ended relatively quickly and without even more grievous fallout, even as we grapple with the implications for US-China relations of the recent sentencing of Wei Jingsheng to another long prison term.

As we take pleasure in anticipating lower tariffs on many imports to China, announced without detail by President Jiang Zemin at the Osaka APEC meetings, we scramble to minimize the damage likely to arise from the impending revocation of the import duty exemption on capital equipment for foreign-invested enterprises. US businesses confront gaping uncertainties over the specifics of that policy shift only a few weeks before its predicted implementation date.

We can view with some satisfaction the substantive Clinton-Jiang encounter in New York at the United Nations in November, but we can't quite discern the results. Some say that China's World Trade Organization accession got a big boost from that meeting, but others in both countries believe that accession on acceptable terms is still beyond the horizon.

We can applaud with some relief the resumption of several US-China dialogues, including discussions on military issues, that were interrupted by the Lee Teng-hui visit. But we still hold our breath over remaining uncertainties—in the Taiwan Strait and the South China Sea, for example.

We can find a certain ironic amusement in, on the one hand, the untidy process of US policymaking toward China and, on the other, the increasingly strident Chinese depictions of a coherent, malignant US strategy of containing and obstructing China's development.

Expanding the horizons

We can look back over 15 years and find cause for rejoicing in the many widely recognized improvements in the business environment for US firms active in China, but we can note with apprehension a range of thorny issues—the overt interventionism of recently formulated PRC industrial policies, the continuing uncertainties over distribution of central and local authority, and the widely reported increase in incidences of egregious corruption—that are apparently products of the very transformations we applaud.

We can note with satisfaction the separation of China's Most Favored Nation (MFN) trade status from non-trade conditions in 1994 and its preservation after strenuous efforts in 1995, only to face the realization that the acrimonious

Trade with China could easily become a conspicuous target.

MFN review process required by the Jackson-Vanik amendment is still tightly lodged in our body politic, a permanently open wound leaving normal US-China economic relations perpetually vulnerable to attack.

We can take comfort from the fact that, over the past dozen years and more, political onslaughts against open trade have risen and fallen without ever determining the outcomes of quadrennial US presidential campaigns. But we must remain alert to the chorus of criticism rising against US economic internationalism again this year, in the knowledge that trade with China could easily become a conspicuous target in a broader attack on trade itself-from any point on the political spectrum. US exports to China in 1995 rose strongly, but imports have risen faster, and the merchandise trade deficit with the PRC

is growing. No matter how it's calculated, the gap is widening, and the door is swinging ever more widely open to politicization of the issue in the United States.

In a nutshell, 1995 was a good business year in the China field, but most of us could have done with out some of the thrills and chills. As for 1996, I would happily forego some of the excitement of 1995 and would settle instead for a year of tranquility and predictability in US-China business. But I won't indulge in wishful thinking. We all have our own lists of US-China irritants we would like to see vanish into thin air, but wish lists aren't work plans; we're better off focusing on matters at hand. We know that here at the Council we will have plenty to do as the intricate web of US-China business grows, stretches, and bends in the months ahead.

To all our friends and readers in business, government, and academia at home and abroad, warmest wishes from the Council for a happy and prosperous New Year.



F O C U S

Re-vamping the Welfare State

China aims to weaken the link between employers and benefits

Anne Stevenson-Yang

hina is dismantling the social security system invented in the early days of the People's Republic. In its place, eventually, will be a new system designed to be the foundation of a free labor market and a modern industrial nation. The speed of regulatory change

thus far and the ambitiousness of China's goals, however, have left foreign investors feeling bewildered—and buffeted by rising labor costs and new regulatory demands. Although foreign investors generally support the changes, the rate at which labor costs are increasing is giving them pause.

The new system, as outlined in the 1995 Labor Law, aims to shift management of social insurance from the enterprise to the local and, ultimately, national level (see The CBR, November-December 1994, p.46). Local governments have been left with the enormous task of implementing Beijing's general goals: the establishment of citymanaged funds for pensions and housing; and medical, accident and disability, maternity, and unemployment insurance.

The new system is being grafted onto the old, enterprisebased system of social welfare, in which enterprises provided health care facilities, housing, and many other social benefits

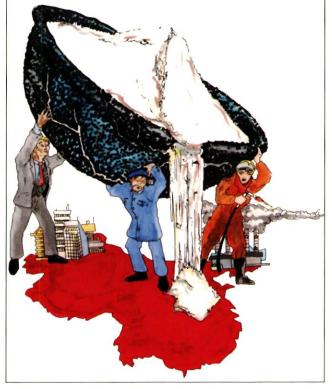
■ Anne Stevenson-Yang is director of the Council's China Operations. This article is based on a larger report published by the US-China Business Council.

through a complex array of funds and direct cash subsidies. Most companies are seeing costs increase under the new system, without, as yet, any significant improvements in worker benefits.

Breaking iron bonds

If China is to develop a competitive and mobile labor market, change is urgently needed. After taking power in 1949, the Communists struck a Faustian bargain with the urban work force: the huge industrial conglomerates created by the new government would provide womb-to-tomb security and, in return, workers would be bound for life to their employers. The employing "units"—as each factory, school, government office, or other employer was dubbedprovided maternity care, day care, kindergartens, housing, clinics, dining halls, hair shops, bathhouses, gymnasiums, movie theaters-they became small company towns with complete facilities for exclusive use by their workers.

Clusive use by their workers. Work units were required to provide jobs to a quota of new-comers each year, mediate personal disputes, organize political education, and carry out other social responsibilities. They also held considerable power over the lives of their employees. Work unit permission was required for marriage, divorce, travel, transfer to another area, further education, membership in Party organizations, and any other important life passages.



The sclerotic system organized around work units cut labor mobility to a minimum. It became virtually impossible for companies. State-owned or otherwise, even to consider profitability and efficiency as goals of their operations, as they staggered under the weight of their social obligations. When China emerged, blinking, from the Maoist era in 1978, the nation found itself with an urban work force that was poorly trained, unaware of industrial advances elsewhere in the world, and steeped in a bureaucratic culture that militated against change. The work units had paid all benefits out of current receipts and had not created funds for future pensions and other liabilities. They had kept salaries low and subsidies high. As a result, workers stood to lose all their benefits, from health care to housing to nursery schools, if they switched employers. Employers, too, had a social obligation not to put people on the street, so staff were retained even if their jobs had long since been eliminated. State-owned enterprises (SOEs) ballooned with surplus labor-the current redundancy rate is at least 30 percent, according to conservative government estimates-and yet were unable to make layoffs. Workers, even if they could double their salaries elsewhere, had a strong incentive to remain attached to their original employers.

Clearly, competitive and economically productive industries require a more nimble work force. Since the beginning of the economic reforms, the government has been devising ways to improve efficiency in the provision of benefits, persuade individuals to shoulder some of the costs of their own upkeep, and release the urban proletariat from its iron bonds to the original employer. In so doing, the government also has hoped to lessen the need for constant infusions of cash to State enterprises, which have grown dependent on government loans to meet operating costs.

Overhaul, round one

When foreign companies began to enter the market in the 1980s, Chinese authorities were forced to analyze the byzantine wage and benefits structures at Chinese companies in order to ensure that foreign companies would pay full labor costs—salary plus benefits—rather than

merely cash wages, which represented only a small portion of a worker's overall compensation. The social security system now being created draws important lessons from China's experience during

When foreign companies began to enter the market in the 1980s, Chinese authorities were forced to analyze the byzantine wage and benefits structures at Chinese companies in order to ensure that foreign companies would pay full labor costs.

the 1980s with foreign-invested enterprises (FIEs), which were the first to begin providing welfare benefits through funds.

During the mid-1980s, the government issued a series of regulations designed to shift management of certain benefitsusually pension and unemployment insurance-to the municipal level, with the goal of enabling workers to change jobs without losing benefits. In 1986, a series of supplemental regulations to the Regulations of the PRC on Labor Management in Joint Ventures using Chinese and Foreign Investment were published that compelled companies within a given jurisdiction to pool their retirement and unemployment funds under city administration. Unemployment insurance was the first such fund to be established with some success, and city-managed unemployment insurance is now widespread. Pensions were the second benefit to undergo limited pooling. Shenzhen started a pilot pension program in 1987, followed by Shanghai. By mid-1995, most major localities had established some form of city-based pension (see table).

Round two

Having observed the results of various pilot programs and the implementation of various social insurance funds in a handful of cities, Beijing decided to proceed with the social security overhaul and passed the 1995 Labor Law (see p.16). The new law expands the mandatory funds to five: pension, medical, accident and disability, maternity, and unemployment insurance. In addition, most localities are establishing funds for the construction of housing for low-income residents (see p.18). Enterprises must contribute to the funds even if they already provide housing to their workers. Also, in addition to the funds mandated by the 1995 Labor Law, welfare funds, out of which various subsidies are paid to employees, have long been required of companies. Though implementation has been uneven, generally most cities establish unemployment insurance funds first, followed by pension, accident and disability insurance, housing, and lastly, medical and maternity insurance funds.

Managed by social insurance bureaus established either under city governments or under the local labor bureaus, pension and insurance funds receive their money principally from compulsory company payments, but also require individual contributions. Contributions to the funds are normally calculated based on real wages (employee cash compensation, including salary and bonus). Some fund contributions are based, however, on the average local wage, which is usually a much lower figure than real wages, particularly for FIEs. Although the Ministry of Labor (MOL) originally required the use of the average local wage as the base, most localities require payments based on real wages, and the central government is not challenging this practice. Increasingly, though, local governments are capping contributions, usually at the local average wage, to remedy the inequities of a system based on real income.

The social insurance funds have yet to achieve universal implementation and standardization. The main features of employers' social welfare obligations, however, are beginning to emerge:

■ Pension Of the five funds mandated in the 1995 Labor Law, pension funds are being implemented most widely, due to both the growth in the elderly

population and the large numbers of State-owned enterprises with unfunded pension liabilities. China's emerging pension system is designed to provide for the currently needy as well as save money for future retirees. Different regions, as they begin to implement pension systems in various ways, seem deeply divided over the extent to which the funds should support people now being forced into retirement by companies that are near bankruptcy, and the

China's emerging pension system is designed to help the currently needy...

degree to which the funds should be savings accounts for the future.

The pension system has two components: an individual retirement account and a social pooling fund (shehui tong-chou). The individual account is to be established in a bank selected by the local social insurance bureau. Workers are to receive passbooks showing the accumulation of pension money in their accounts. Part of the corporate contribution is set aside for the individual account and part for the social pooling fund, while the individual's contribution goes entirely into his or her personal account. After a vesting period of three to

Employer and Employee Contributions to Social Insurance Funds

Portion of an employee's cash compensation (salary and bonus) paid by employer

					Guangzhou			
	Beijing	Chengdu	Dalian	Guangzhou	EDTZ ^a	Hangzhou	Nanjing	Ningbo
Pension ^b	17%-19% [5%]	22% [2% ^c]	19% [2%]	24% [3%]	20% [2%]	23% [3%]	20% [3%]	20% [3%]
Medical	7.5% ^d	7.5%	W	W	NA	NA	NA	NA
Housing ^b	5% [5%]	35% ^e	20% [10%]	5%	NA	NA	NA	NA
Unemployment ^b	1%	1%	1%	0.07%	NA	1% [0.5% k]	NA	1% [0.5% k]
Disability	NA	0.2%-1.5%	0.5%-1.5%	0.5%-1.5%	NA	NA	NA	NA
Maternity	NA	0.7%	0.8%	0.7%	NA	NA	NA	NA
Welfare	19%	14%	20%	30% ^f	30%	U	20%1	U
Total Cost to								
Employer ⁹	49.5% - 61.5%	45.41% - 83.82%	61.3% - 74.3%	60.27 % - 64.27 %	20%-52%	24%-27.5%	U	21%-24.5%

Current Local Minimum and Average Wage

	Beijing	Chengdu	Dalian	Guangzhou	Guangzhou EDTZ ^a	Hangzhou	Nanjing	Ningbo	
Local Minimum Wage [¥/month]	240	180	220	320	320	210	210	U	
Local Average Wage [¥/month]	545	405	U	700	U	U	U	U	

SOURCE: US-China Business Council.

NOTES: Figures were obtained from local labor officials and from the Ministry of Labor. Application may vary greatly from enterprise to enterprise, and contribution levels change with some frequency. NA = Not applicable; U = Information currently unavailable; W = Covered by contribution to the welfare fund.

^a EDTZ = Economic Development and Technology Zone.

Contribution cap is 300% of monthly salary.

d Of which 2.5% and 6% must go to "social pooling" for foreign-invested enterprises and State-owned enterprises, respectively.

11% for State-owned enterprises.

b Figures in brackets indicate required additional individual contribution amounts.

^e Applies only to employees for whom the company does not provide housing. Employer must also contribute an additional 5% of total enterprise pension contribution for retiree housing.

four years, the money in the individual accounts is paid out upon retirement, usually in 120 monthly installments. Some systems allow workers to take their pension as cash if they move to a new locality, although there are tax penalties for doing so. Cities use monies from the social pooling funds to assist destitute retirees, adjust for inflation for future retirees' pensions, and provide pension payments to those who outlive their retirement funds.

...as well as save money to provide assistance to future retirees.

Ultimately, Beijing intends to raise the mandatory individual contribution to pension funds to eight percent of total cash compensation, from a starting point of two percent at the inception of the local fund. This will be accomplished by increasing the required contribution one percentage point every two years. Some localities reduce the amount of the contribution required of the employer as the individual contribution rises, while others allow the total individual and corporate contributions to increase over time. Most localities require companies to "gross up" salaries to compensate employees for the amount of their individual pension contri-

Qingdao	Shanghai	Shenzhen	Suzhou	Tianjin	TEDA ^m	Wuxi	Xiamen	Xian
25.5% [3%]	30% [4%]	16% [5%]	21% [3%]	20% ⁿ [4%]	30% [4%]	23% [2%]	20% [3%]	19% [2% ^c]
3% ^h	7.5%	9%-10% ⁱ 4% ^j	W	W	U	W	NA	W
NA	5% [5%]	13% i	W	5% [5%]	28%	2.5% [2.5%]	W	10% [10%]
NA	5%	1%	1%	1%	3%	see footnote°	1% ^p	1.5%
1.2%	U	0.8%-2.5%	1%	NA	¥7.5/month	0.5% - 1.5%	1%-2%	NA
NA	U	NA	1%	NA	NA	1%	NA	U
U	5%	NA	20%1	30%	NA	65%	8%-10%	U
29.7% - 32.7%	62.5% - 76.5%	21.8% - 47.5%	44%-47%	56%-65%	61%-65%	92% - 97.5%	30% - 36%	30.5% - 42.5%

Qingdao	Shanghai	Shenzhen	Suzhou	Tianjin	TEDA ^m	Wuxi	Xiamen	Xian
U	210	350	210	240	240	210	U	200 (city); 150 (suburbs); 125 (rural)
U	617	881	508	447	447	U	627	347

g Because in most localities employers either "gross up," or adjust, employees' salaries to compensate for the employees' share, or simply pay this portion directly, the individual contribution is included in the maximum total cost to employers.

h Goes to "social pooling."

For employees with Shenzhen residency cards.

k Based on average wage in enterprise.

1 14% for State-owned enterprises

ⁿ Of which 12% is applied to medical expenses.

Only for catastrophic coverage for employees with non-Shenzhen residency cards.

^m TEDA = Tianjin Economic Development Area.

O Employer pays ¥3/month and individual is responsible for, but companies pay, ¥1/month.

P Based on the local average wage.

butions. National regulations stipulate that the current minimum corporate contribution is 14 percent, and individual and corporate contributions together must total at least 16 percent.

In 1993, the Ministry of Civil Affairs, which handles emergency and disaster relief programs, began administering a cooperative pension scheme for rural residents. In some areas, the insurance scheme covers not only pension but also basic accident, health, and maternity insurance.

■ Unemployment Unemployment offices, which number about 2,000 nationwide, are under the Ministry of Labor and are charged with providing the unemployed with placement services, job training, and a monthly stipend for a maximum of two years. Unemployment benefits are available only to those who have had their labor contracts terminated or were forced to leave positions in factories or with other non-agricultural employers because of bankruptcy or some other serious problem. Local unemployment offices offer basic job training and placement services but require that the person drawing benefits provide evidence of an

The 1995 Labor
Law expands the
publicly managed
funds to five: pension,
medical, accident
and disability,
maternity,
and unemployment
insurance.

unsuccessful job search. Most enterprises are required to contribute to city unemployment funds one percent of the enterprise's total payroll for the previous year.

Because provinces still maintain a cap on the official level of unemployment, the number of companies allowed to go into bankruptcy remains limited. Consequently, underemployment in China is a far more serious problem than unemployment. Foreign investors often encounter extremely high redundancy rates in many State-owned companies. In agriculture and sideline industries, official estimates for redundancy are unavailable, but the 100 million or more peasants who are currently working away from home or actively seeking work in cities suggests that the countryside holds a vast store of excess labor for whom benefits will need to be available at some future time as well.

■ Accident and disability Individual enterprises have long been required to compensate workers injured or disabled on the job. But by 1992, payout levels had not officially increased from the levels set in the late 1950s and 1960s, and the system was unable to cope with large industrial accidents exceeding the ability of single enterprises to pay. In 1992, MOL, the Ministry of Public Health, and the All-China Federation of Trade Unions jointly promulgated the Standards for Assessing Disability Resulting from a Work-Related Injury or Occupational Disease, which specified a new schedule of increased payouts. Although labor officials have now authorized local labor bureaus to implement city-administered accident and disability insurance funds, into which

Unions and Contracts

In the early 1980s, certain localities in China began to experiment with a contract system of labor designed to increase employee mobility and accountability. The experiment was expanded in 1986, when provisional national regulations were issued establishing in principle, if not in wide practice, employment for a limited term, a probationary period during which firing would be relatively easy, discretionary hiring on the basis of merit, and layoffs for economic reasons. These regulations, confirmed by the 1995 Labor Law, allow short-term contracts of one to five years, and long-term contracts of five years or more. Workers who have been employed with the same enterprise for 10 years have the right to an open-ended contract.

The 1995 Labor Law and one piece of implementing legislation, the Collective Contract Provisions, have made labor contracts—individual or collective—mandatory in all industrial enterprises, including township and village enterprises. At the end of 1994, the Ministry of Labor estimated that about 40 million workers were covered by labor contracts, or 40 percent of the work force at State-owned enterprises. By the end of 1996, the ministry hopes to bring China's remaining 300 million industrial workers under contracts.

Companies can now draw up separate contracts for each employee or a collective contract covering all employees. Although a company need not have a labor union to sign a collective contract, employees must have a representative to bargain on their behalf. Chinese law has advocated, but not required, collective contracts for foreigninvested enterprises (FIEs) since the promulgation of the Implementing Regulations for Labor Management in Sino-

Foreign Joint Ventures in 1984. FIEs, however, tend to be skittish about collective contracts, which are binding even upon workers who do not sign or consent to them. Many FIEs have tended to avoid these contracts, preferring to use an employee handbook to cover procedures not included in contracts with individual employees.

By clarifying the employer-employee relationship, the new contract system lays the basis for collective bargaining and promotes labor mobility. While work units traditionally have had a vice-hold on employees, already a body of arbitral and court cases is emerging to clarify the extent of contractual control. Although occasionally contracts can be used by labor authorities as a wedge to force the introduction of unions into enterprises, in general they have proven to be an effective management tool.

-Anne Stevenson-Yang

companies and employees in each locality make payments, relatively few local governments have established such programs to date.

Under the central government's mandate to cities, premiums paid by the employer will range from 0.3-3.0 percent of the average local wage. The required percentage contribution will be set according to the frequency of accidents and disabilities in the sector in which an enterprise operates. MOL, which is currently determining the safety records of industrial sectors for this purpose, will establish 10 levels of disabilities and corresponding payout levels. The plan calls for the insurance to pay out 75-90 percent of

Enterprises typically are required to contribute 0.7–0.8 percent of payroll to a maternity fund.

an employee's ending salary in monthly installments for total disability and make lump-sum remuneration for partial disability. Funeral allowances, lump-sum payments, and monthly stipends for surviving relatives will be required for workers killed on the job. Under Guangzhou's proposed plan, companies will be obliged to include expatriate salaries in the calculation of accident and disability premiums, though no other locality has reported requiring this inclusion.

■ Maternity benefits Few localities have implemented the nationally mandated city-held maternity funds to which enterprises are supposed to make payments to cover employee medical costs associated with pregnancy and delivery—including prenatal check-ups, delivery, hospitalization, medication, and follow-up visits after delivery. Where plans have been implemented, enterprises are typically required to contribute 0.7-0.8 percent of payroll to

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Management Counsellors International Soundview Plaza, 1266 East Main Street, Stamford, CT 06902 800-848-7881 Fax (203) 323-8226 a maternity fund. Female employees receive a lump-sum payment as new mothers, provided the birth falls within the provisions of China's family-planning policy. Maternity insurance also is supposed to provide a nutrition allowance for three months, at least 90 days of paid maternity leave, and abortion coverage. In Guangzhou, the nutrition allowance is set at 25 percent of one month's wage for a normal birth and 50 percent for a multiple birth or "difficult" delivery.

■ Medical insurance Health costs in China have been rising extremely quickly, although China still spends only about 3.7 percent of GDP on health care annually. Chinese health officials estimate that the average Chinese spends about ¥250 (\$30) per year on health care—most of which is reimbursed by employers. In the countryside, where the incidence of reimbursement is much lower, some estimates put average annual medical expenditures at only ¥14 (\$1.70) per person. Medical costs for an enterprise currently total about 10 percent of its payroll. Pharmaceuticals account for 68 percent of outpatient care costs and 54 percent of inpatient care costs.

China aims to extend basic medical care to the whole population, but make individuals adopt a greater share of financial responsibility for their own medical care.

China distinguishes between publicly reimbursed medical care for central, provincial, and local government employees, and medical insurance for employees of collectives, SOEs, and FIEs. As of 1993, the State covered medical costs for 15 percent of the population—including 30 million people covered by public reimbursement and 104 million by workers' insurance—at a total cost of about ¥46 billion (\$5.3 billion), excluding capital outlays. The other 85 percent of the pop-

ulation was covered by collective arrangements in villages—or not covered at all. MOL reported that, in 1994, SOEs paid out ¥33.2 billion (\$3.9 billion) in medical fees, one-third of which was for retirees.

The emerging medical insurance system has three principal goals: to extend basic medical care to the whole population; to control rising medical costs; and to make individuals adopt a greater share of financial responsibility for their own medical care. The system envisions individuals paying for 10-15 percent of their health care costs, although the percentage runs higher in some areas. The favored model is one in which city governments control costs and force individuals to rely heavily on personal medical insurance accounts for all but catastrophic medical needs. Consequently, consumers would put downward pressure on prices, since they would be required to use the money accumulated in their medical accounts to cover non-catastrophic medical treatment.

Under this model, city authorities would set standard prices for certain treatments and disallow certain technologies or drugs considered expensive or experimental. The plan would reimburse individuals only for sanctioned fees and services. Many Chinese would be hesitant to opt for expensive procedures because they may doubt that the government actually would cover all of the medical costs. The money in an individual's account could not be used for other than medical purposes but could in some cases be left to survivors.

While public monies would not be available for routine individual care, the city government would manage a social pooling fund to help cover medical expenses for people who had exhausted their individual accounts. When the individual had depleted his or her account, reimbursement would come from a combination of monies from a social pooling fund and individual out-of-pocket payments. So far, only Hainan Province, Shanghai, Shenzhen, and parts of Sichuan Province have started such a plan. Beijing has established a social pooling fund for medical reimbursement but has not established a general medical insurance fund system.

Most localities are working out regulations for the establishment of social pooling and medical relief funds. National

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regulations stipulate that no more than 50 percent of the mandated corporate contribution to health insurance should be placed into a city-managed social pooling fund to pay basic medical costs for those whose personal accounts are insufficient. Most localities require companies to increase the portion of their medical fund contributions that go toward social pooling for workers over the age of 45.

- Housing Although not mandated in the 1995 Labor Law, all except small, privately owned enterprises in China are required by national regulations and foreign investment law to make some provision for housing. The State Council does intend to create a commercial housing market and gradually relieve the obligation of employers to provide housing, but the funding for medium- and low-income housing is to come, as usual, from companies and their employees. In July 1994, the State Council's Resolutions on Deepening the Housing Reforms in Cities and Towns laid out a general policy direction. Following this, directives from the State Commission for Economic Restructuring have required localities to establish funds with employer and employee contributions, which eventually will be used to build low-income housing available for sale back to contributing workers.
- Other benefits The new Chinese system distinguishes clearly between social insurance and social welfare. The five funds mandated by the Labor Law are intended to meet the need for social insurance. Social welfare programs, in contrast, consist of subsidies and emergency relief. China requires all enterprises to provide what amounts to a laundry list of subsidies to workers, sometimes by making payments into a fund or to the locality, and sometimes by paying the subsidies out of pocket. Although national regulations require that 14 percent of a company's wage bill be devoted to subsidies, localities generally do not enforce this minimum contribution requirement. In addition, the 1979 Joint Venture Law requires each FIE to allocate a portion of its profits-as determined by the company's board of directors-to a separate Bonus and Welfare Fund which is held by the enterprise.

The outlines of the basic welfare fund were established in 1954. All enterprises in China administer their own welfare During the "go-go"
1980s and 1990s,
China largely
neglected the need
to build moderateincome housing and
medical facilities.

funds, under the supervision of the local labor bureau and the policy direction of the Ministry of Finance. The welfare fund covers three areas: collective facilities, subsidies, and relief, though in some cases health care is also covered by the welfare fund.

• Collective facilities that an enterprise is charged with providing through its welfare fund include cafeterias, day care centers and kindergartens, showers, barber shops, housing for workers and their families, and cultural facilities such as libraries, sports facilities, and dance halls. Since money has seldom been available to build all possible facilities, companies have typically built collective facilities in the order management has deemed necessary.

- Subsidies provided to employees out of the welfare fund include a transportation allowance, a heating subsidy for employees of companies north of the Huai River, a food-price adjustment, and a special food allowance for people of the Muslim Hui minority.
- Relief provided by the welfare fund consists of payments for employee funeral expenses and allowances for relatives of deceased employees and retirees, and temporary monetary assistance to workers' family members who are in poverty or stricken by natural disasters. Funeral subsidies are normally given as a lump sum to survivors.

While most big cities tend to require contributions of around 20 percent of employee wages to a welfare fund, FIEs in many localities are required to contribute more. Guangzhou, for example, requires foreign companies to pay 30 percent and domestic companies 11 percent of real wages. From this welfare contribution

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come the following: ¥5 food price subsidy; ¥2 grain allowance; ¥6 meat and vegetable allowance; ¥10 temporary living subsidy; ¥20.44 staple food subsidy; ¥5 hardship allowance; ¥7.5-20 temporary hardship allowance; not less than ¥8 grade allowance to retirees, depending on the retiree's former administrative grade in China's civil service system, which also applies to workers in SOEs; ¥6 grain price subsidy; ¥4 coal price subsidy; and several other miscellaneous payments. Subsidies must be provided to retirees as well as active workers.

But sorting out an FIE's obligations is never simple. Few enterprises pay welfare subsidies out of a fund, and many are unaware of funding requirements. As for the enterprise Bonus and Welfare Fund, FIEs have no legal minimum required contribution, but all must establish this fund. Normally, the Ministry of Investors find that transparency is desperately lacking in the social insurance system.

Foreign Trade and Economic Cooperation recommends that FIEs make an aggregate allocation of 15 percent of current annual profits to three required funds—a Reserve Fund, an Expansion Fund, and a Bonus and Welfare Fund—or 5 percent of profits to each. Many FIEs, however, prefer to make token allocations of around 1 percent and leave the issue of reserves or profit-sharing to their boards of directors.

Although substantial overlap exists between the two welfare funds, they are distinct from each other and from the five social insurance funds, and are not likely to be eliminated soon. While authorities may eventually allow FIEs to include social welfare payments in their contributions to the city-held welfare funds, the subsidies and relief components will not disappear without a mandate from the State Council or an act of the National People's Congress.

Mid-stream prognosis

China is racing to meet huge needs in housing, medical infrastructure, social security, and support for the unemployed. Despite the tremendous waste during the Maoist era, Mao's policies did at least leave China with some basic infrastructure. During the "go-go" 1980s and 1990s, however, China largely has neglected the

Social Security Policymaking Agencies

As with most major policy changes in China, the social security system is being designed by an inter-ministerial council. At a minimum, the ministries of finance, labor, and personnel, the State Planning Commission, and the People's Bank of China are involved. The inter-ministerial council is creating the general structure of the system, while individual ministries are responsible for formulating implementing regulations. Localities generally draft the regulations that designate the level of required contributions to funds and lay out the structure for payment collection and disbursement of benefits. The central level establishes goals for localities to reach according to fairly flexible timetables and, through internal documents, sets broad parameters for contributions to social security funds. There are several key players: ■ The Ministry of Labor (MOL) is most intimately involved in labor policy and in fashioning a social security system for China. The ministry's Department of Social Security helped draft the 1995 Labor Law and 51 implementing regula-

tions for the law, and the Social Insur-

ance Law, which may be passed in

early 1996 and will set more specific parameters for the social insurance funds than those contained in the 1995 Labor Law. Local labor bureaus, which technically come under MOL, review labor contracts, mediate disputes, approve hirings and firings, and otherwise involve themselves in the employee affairs of enterprises. It is rumored that the ministry's Department of Social Security may be spun off sometime in 1996 to merge with parts of other ministerial agencies and form a ministry of social security.

- The State Planning Commission (SPC), China's chief economic planning body, is responsible for drafting the Five-Year plans. As the highest of the PRC government's three organizational levels directly under the State Council (commissions, ministries, and bureaus or administrations), the SPC is in charge of macro-planning and thus is consulted in all matters of policy affecting the architecture of the social security system.
- The State Commission for Economic Restructuring, through its housing reform office, helps formulate plans for reforming housing and creating a pri-

vate housing market. The commission's Department of Distribution Systems also participates in planning the design of the social security system and is particularly active in issuing plans for health insurance.

- The State Economic and Trade Commission is the government's caretaker for State-owned enterprises and, as such, has a say in labor policies that could affect these institutions, including bankruptcy laws and regulations on discharging redundant staff.
- The Ministry of Finance, principally through its Department of Social Insurance, drafts regulations on financial management and tax treatment of social security funds.
- The Ministry of Personnel is charged with formulating labor policy for government employees and management personnel.
- The Ministry of Civil Affairs handles emergency relief programs and benefits for military personnel. The ministry also organizes many of the village cooperative social insurance plans operating in the countryside, particularly for health programs.

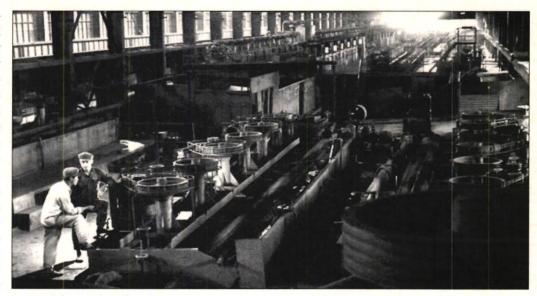
-Anne Stevenson-Yang

need to build moderate-income housing and medical facilities and to save money for future retirees. Many SOEs are unable to pay current annuities and, if allowed to go bankrupt, will pay none in the future. The one-child policy, moreover, has helped tip the population scale toward retirees. MOL estimates that China will have 35 million retirees drawing public funds by the year 2000, at a cost to the government of ¥100 billion in yearly pension outlays, or roughly \$350 per retiree per year—hardly enough to live on even now. To meet current pen-

sion obligations, China must take on debt, but it appears that the country's leaders are not prepared to do so.

The weaknesses in China's banking system further compound budget shortfalls. Interest rates are relatively low and few long-term investment vehicles currently exist. MOL reports that localities together hold about ¥30 billion (\$3.65 billion) in pension funds, but the value of that money is being eroded by inflation in most areas, due to the inflexibility of the financial system. Many foreign companies doubt that they will be able to count on the current public pension plans to support their employees in retirement, and many are beginning to establish supplementary pension funds, usually held in dollars and managed overseas.

Foreign investors, for their part, tend to support China's ambitious efforts to establish this new social security system, but at the same time are skeptical that their payments into the funds will translate ultimately into benefits for their workers. Many foreign companies, eager to retain good workers, are watching their costs rise significantly as they establish their own supplementary plans for pensions, health insurance, and housing. Investors also find that transparency is desperately lacking in the social insurance system. Practices can vary greatly even within a given municipality due to conflicting regulations, new regulations that have not been applied, and special arrangements worked out between com-



As PRC labor and welfare laws evolve, China's work force is discovering new challenges and incentives.

panies and labor authorities. In addition, local labor bureaus often refuse to meet with foreigners and will not divulge their regulations unless the questioner has special access of some kind. To make matters worse, their communication with the central-level MOL is weak, so the ministry often is unaware of local regulatory changes.

All of these factors make managing personnel in China increasingly expensive and extremely labor intensive. The changes make it all the more important that investors broach the subject of human resources at the beginning of their joint-venture negotiations, that they appoint senior human resources managers to China, and that they try, wherever possible, to appoint a personnel director within the joint venture who will be responsive to the interests of the foreign, as well as the Chinese, partner.

In the short term, enterprises seem likely to have to suffer through a period of rising labor costs. Perhaps employers can find consolation, however, in the hope that the changes under way will result over the long term in a true labor market, in which a Chinese worker will have the opportunity to move to a job with full benefits in Urumqi, Beijing, or any other Chinese city.

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Building a New Foundation

■ Alexa C. Lam

Little by little,
Beijing is shrugging
off its housing
obligations

ousing a population of more than 1.2 billion and growing has never been an easy task for China. The PRC government traditionally required enterprises to provide housing for their workers as part of the package of benefits dispensed by work units organized in association with China's State-owned enterprises (SOEs). Many foreign companies jumping into the China market in the early 1980s quickly discovered that they, too, were usually obligated to provide housing for their joint-venture workers.

But with Beijing's realization of the need for reform of the State sector came the awareness that the immense cost of providing housing to China's workers was a burden the State could no longer bear. Thus, the 1994 State Council Resolutions on Deepening Housing Reforms in Cities and Towns (the Resolutions) were issued to launch a reform of the housing system in concert with reforms of the State's other social welfare programs (see p.8).

Generally regarded as the blueprint for China's housing reforms, the Resolutions were drafted with the intention of relieving the State and enterprises of full responsibility for housing employees; with the promulgation of the Resolutions, responsibilities are now to be shouldered as well by Chinese workers. Further, housing is no longer deemed to be a benefit, but rather an economic reward to which workers aspire, with help in the short term from their work units. An inte-

gral part of China's housing reforms, the housing fund system aims to release into commercial circulation and private ownership homes which enterprises previously had been obliged to provide at little or no cost to the employee. Over time, as the new regulations encourage more property transfers between private parties, China should see the development of a mature housing market.

Breaking ground

Housing in China has tended to consist of poorly maintained domiciles doled out by work units to meet only the most basic needs for living space during nonwork hours. The first steps toward reforming this inadequate system began in 1994 with the sale of enterprise-owned housing to occupants at subsidized prices. The monies from these sales were then accumulated into housing funds for the construction of new homes for purchase by workers, with assistance from work units if necessary. The 1994 Resolutions aimed to cement in place these initial changes made in housing administration by creating the Residential Housing Scheme Reform Group, a separate national body organized under the State Council. This group has set up in each province or municipality a housing reform office charged with establishing and managing the local housing centers. The housing center in each locality, in turn, oversees the housing fund accounts for enterprises and work units.

Alexa C. Lam is a partner in the Hong Kong law firm of Kao, Lee & Yip, specializing in China's retail, corporate, commercial, banking, and infrastructure sectors. All municipal- and rural town-level governments must now establish a housing fund into which individual employees and their employers make monthly payments. The details of each individual housing scheme will depend on the particular circumstances of the locale, but all funds are to serve three purposes: to relieve the employers of the burden of providing housing; to facilitate the movement of domestic savings, which have ballooned in State-owned and controlled banks, into real estate; and to create a private housing market.

By 1994, several large cities had already adopted resolutions to privatize domestic housing and had created housing fund contribution programs mandating worker and employer contributions. In Shanghai, for instance, such reforms began in mid-1991 (*see The CBR*, July-August 1991, p.30). Other cities, including Beijing, Dalian, Hangzhou, Harbin, Qingdao, Shenyang, and Tianjin, have also enacted similar legislation.

The nuts and bolts

While local variations abound, the housing funds established so far are similar in structure, management, and operation to the system in place in Shanghai. All employees and employment units, including foreign-invested enterprises (FIEs), are required to make monthly contributions to the fund. In the case of FIEs, only Chinese workers are required to participate. Enterprises are allowed to organize their own housing funds but also must contribute to the municipal housing fund.

In Shanghai, the fund is managed by the Shanghai Housing Municipal Funds Management Center, established under the municipal government's Housing Reforms Leadership Group. All housing fund accounts are held by the Shanghai branch of the People's Construction Bank (PCB). Although investment guidelines have not been made public, PCB has vowed not to invest the funds in risky derivatives or to use the funds to hedge the bank's own investments. The Shanghai Housing Center has stressed that the funds are being used in the city's variant of the nationwide anju program, an ongoing campaign to develop low-cost housing to ease the nation's housing shortage. Nationally, housing funds are prohibited from investing in stocks and shares.

The individual account will follow the worker wherever he or she goes.

Monthly employee contributions are matched by an equal payment from their employers. In Shanghai, the monthly contribution requirement for each employee is five percent of the worker's average monthly wage earned during the previous year, with a minimum monthly contribution of ¥27 (\$3.25) and a maximum of ¥125 (\$15). Contract workers are all required to participate. While the contributions may not appear inordinately hefty on a per-capita basis, Shanghai authorities anticipate that the actual amount contributed annually will rise as a result of cost-of-living salary increases. Authorities recognize that higher contribution amounts are necessary if the funds are to serve as an effective source of financing for the construction of new housing.

Under central management by the local housing center, a housing fund contains a separate account with a personal account number for each employee. The housing fund must also maintain a discrete account for each employment unit. At regular intervals, the bank into which the funds are deposited is supposed to issue statements to each employee showing total deposits made into the account, interest earned, and the total credit balance to date. If a worker changes employers, the individual account will follow wherever he or she goes—even to another city.

All FIEs are bound to participate in the housing fund schemes. Despite the fact that FIEs and SOEs contribute the same percentages to the housing fund, FIE contributions tend to be higher because FIEs pay higher base wages than SOEs. An FIE can choose to provide housing benefits for its workers to supplement government schemes, but this will not exempt an FIE from participating in a municipal housing fund scheme.

Digging into the fund

China's housing funds are essentially earmarked savings accounts. Employees can only make withdrawals from their housing fund accounts to purchase or

renovate a home for themselves or for a member of their immediate family. If the credit balance in a worker's housing fund is not sufficient to cover the purchase or renovation entirely, the worker may apply for a mortgage loan, as part of the government's housing reform program, from the deposit bank handling the individual's account. Low-interest loans, usually for a term of 5-10 years, are available for new housing as well as for the renovation of existing private homes. The regulations set no minimum period of participation in the housing fund before a worker can withdraw funds or apply for a mortgage to buy a home, nor do they set limits on the number of employees who can withdraw funds at any given time. However, a mortgagor can borrow no more than 70 percent of the purchase price of the house.

As workers typically amass a maximum of only ¥1,500 (\$180) in their housing fund accounts per year, most have to rely heavily on personal savings to finance home purchases or renovations. Moreover, mortgage loans obtained through the government housing program are subject to a maximum term of 15 years and are calculated on the basis of the applicant's salary, work experience, job status, and other criteria deemed relevant by the lending institution. Workers in Shanghai who earn up to ¥5,000-¥6,000 (\$600-\$722) per month-well above the national average—have been known to complain that they are limited to mortgages of only about ¥14,000 (\$1,684).

In line with China's reform policy that commercial banks be guided by sound commercial principles rather than by policy considerations, the deposit banks will grant mortgage loans only if the worker's repayment ability appears satisfactory. In the government loan program, the worker's employer must issue a certificate verifying that the worker is on the payroll and has a steady income. In general, an employee must have a bukou, or residence permit, for the relevant city. Monthly interest and principal repayments combined cannot exceed 30 percent of the worker's average monthly wage earned in the previous year. As collateral, the employee is required to mortgage the home in favor of the lender. For pre-sale purchases, in which the home to be purchased is still under construction or is yet to be built, the bank requires a guarantee from the developer.

To stimulate lending and supplement the government's lending facility, PCB recently instituted a new policy allowing Shanghai residents to obtain private mortgages outside of the government program once they have maintained individual savings accounts with PCB of ¥10,000 (\$1,200) for one year or ¥20,000 (\$2,400) for six months. The mortgage loans are offered at market rates, in contrast to the lower-rate government loans.

Purchasing a home, however, does not terminate the obligation of either employee or employer to pay into the housing fund. In fact, both must continue making contributions, irrespective of the number of homes purchased by the worker. The obligation ceases only upon retirement, at which point the employee may close out the housing fund account and use the money as he or she pleases. If a retired employee takes up new employment, whether full or part time, neither the worker nor the new employer need resume contributions to the housing fund account. Thus, in effect, the housing fund serves as a supplemental individual savings accountt.

If an employee sells a home purchased with money from a housing fund account, the amount initially withdrawn must be repaid. This is because the housing fund is intended to encourage the purchase and renovation of private homes, and not speculation in the budding real estate market. The repayment requirement also helps to replenish the fund for future first-time home buyers. Presumably, if an employee decides to buy a more expensive home, the entire sales proceeds may be used toward the new purchase. No explicit regulations prohibit this practice, but in reality most families struggle just to be able to afford a single home. Any leftover savings are typically invested in other ways.

Although quite a few foreign multinational corporations operating in China have set up supplemental housing funds, smaller FIEs typically do not offer these benefits. Those that do often already include housing benefits in their standard company salary package, and wish to extend the benefits to their PRC employees as well. Establishing and managing a separate housing fund may actually prove

Success will be measured by the confidence of Chinese workers in the pool of funds established for home purchases.

less troublesome than constructing entirely new housing units for lease to workers. Further, FIEs that provide their own tailored housing schemes may not view as burdensome the additional cost of a separate housing fund, especially since the provision of above-standard corporate housing can help attract and retain employees.

Constructing a future

The development of a national network of housing funds is still in the embryonic stage, with only a few years of history behind it. Given the size of the country and the malaise of a whole generation of Chinese who have grown up under the belief that their destiny and well being, from cradle to grave, would be taken care of by the State, the housing reform offices charged with spearheading the country's housing reforms have a mammoth task at hand.

The progress made thus far in Shanghai is instructive, however. The China Daily reports that between mid-1992 and October 1995, PCB in Shanghai lent ¥509 million (\$61.3 million) in government mortgages to approximately 22,000 residents. And Shanghai's anju low-income housing program is moving to alleviate the shortage and inadequacy of housing for the city's poorer residents, whose per capita living space is typically four sq m or less. The program offers new housing options to those who can afford to live in higher quality homes by selling, at affordable prices, housing constructed with funds provided by the Shanghai Housing Center.

Shanghai's municipal government has encouraged many domestic and overseas developers to invest in *anju* housing projects. While such projects tend not to be as profitable as commercial retail centers or hotels—in fact, the returns are ex-

tremely low—the municipal government not only has assured investors that *anju* housing development-related taxes are negotiable, but also has offered to purchase all *anju* housing built by independent developers for resale to city residents. A development consortium led by the government of Singapore has been one of the most high-profile investor groups to participate extensively in Shanghai's *anju* program.

The national *xiaokang* program, aimed at raising the overall standard of living of China's citizens, has been advocated by Beijing to augment the *anju* initiatives already under way in localities like Shanghai. Although not yet implemented, the *xiaokang* program hopes to provide at least 10 sq m of living space per person by the year 2000. As part of the general campaign to improve living standards, the *xiaokang* program intends to increase water, gas, and electricity supplies, and add to the number of schools, hospitals, convenience stores, and entertainment centers available to the Chinese people.

For FIEs throughout China who choose to set up their own independent funds, success will be measured by the confidence of Chinese workers in the pool of funds established for home purchases. Until the government housing fund scheme takes firmer root, such independent funds may help an FIE attract the best workers. Meanwhile, smaller FIEs that cannot afford to provide their own separate funds will have to rely on the government's housing schemes to meet employee housing demands.

The State Council's 1994 Resolutions represent a promising beginning for the housing reform movement in China. Experiments like Shanghai's anju program indicate that the country's leaders are paying serious attention to those living in substandard housing and that they remain committed to one of the communist revolution's original goals—to provide housing for all of China's citizens. Nevertheless, the reform will necessarily proceed in stages, with the worst-off urban dwellers given first priority, and only later expand to the point where all workers can afford their own homes. In the meantime, however, more and more Chinese will have available a structure through which to channel savings and to someday realize their dreams of home ownership.



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Holding Up Half the Economy

■ Nancy E. Riley

Women face new uncertainties in a changing China

conomic reform in the PRC is posing new challenges to workers, especially those accustomed to the cradle-to-grave benefits provided by China's State-owned enterprises (SOEs). As workers assume greater responsibility for health care, pensions, and other benefits, many longstanding characteristics of the Chinese labor force will be transformed (see p.8). Understanding how these changes will affect Chinese women, who make up 43 percent of the PRC work force, is important not only to analyze the ongoing transitions in Chinese society, but also to evaluate the future role of women in the work place.

The 1950s Maoist rhetoric of "women holding up half the sky" continues to underlie official government statements on the roles and rights of women. When delegates from around the world convened outside of Beijing last September for the United Nations Conference on Women, the PRC government was eager to highlight the great strides taken by Chinese women since 1949. Education levels for women in China have increased dramatically in the past four decades and women in the PRC enjoy legal rights, better access to health care, and many other freedoms their grandmothers could only dream of. With the massive shifts in economic policy that have occurred in China over the last 16 years, though, the question of the hour turns to what the coming decades hold for Chinese women.

A look at the numbers

China's women are active participants in the labor force: 70 percent of all women, and 90 percent of urban working-age women, are employed. These are among the highest rates of participation in the world (see table). Behind these impressive figures, however, lie several sobering trends. The United Nations reports that women in China face unemployment more frequently than men. And those women who are employed may have to battle against underemployment, which plagues the entire PRC labor market. These two forces have helped to channel Chinese women into clerical or low-skilled service positions; men in managerial positions outnumber women by more than 10 to 1.

Women in China receive lower salaries than their male counterparts—on average earning only 60 percent of what men make. Further, economic reforms are contributing to growing disparities between urban and rural incomes, with many more men than women leaving rural areas to join the ranks of the "floating population" in search of higher-paying jobs in China's cities. Women tend to remain tied to the land and thus to lower incomes, and those who do leave the countryside often are forced to accept low-paying factory jobs. Worse still, according to press and Chinese government reports, some rural women end up being tricked into prostitution or near-slavery.

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Falling through the cracks

Despite ongoing reforms, the PRC economy is still dominated by SOEs and collectives. However, women are less frequently employed by SOEs, which tend to offer higher salaries, better child care and housing, and more generous medical care and retirement benefits than collective or private enterprises. Women are less likely to be hired by SOEs engaged in heavy industry, for example, as they are perceived as less fit for the physical demands of these jobs. They also find it difficult to make the personal contacts increasingly required to secure jobs in SOEs, especially since families seem less willing to use their contacts to find jobs for their daughters. Hence, women are more likely to find less lucrative work in the collective firms: in Tianjin, for instance, 60 percent of workers in SOEs are men, while in collectives, 64 percent of workers are women. Since SOEs generally provide better housing than collectives and hire men more frequently than women, married women in cities tend to live close to where their husbands work. As a result. many end up commuting more than an hour each way on bicycles or crowded buses.

Women tend to retain primary responsibility for household chores and child care, even though most also work full-time.

Chinese women of all ages and occupations, like their counterparts elsewhere in the world, point to gender discrimination as the main reason for the lower representation of Chinese women in high-paying jobs. Interviews with factory managers in China suggest that, official rhetoric notwithstanding, employers are more reluctant to hire women than men for several reasons. Some managers argue that women do not make good leaders, or that male employees will resist having to report to a female boss. Others contend that women are not as "capable" as men, whether it be in physical strength or intellectual ability. It is not surprising then that women who do find jobs in SOEs are promoted more slowly than their male peers.

Gender discrimination in China is no doubt rooted in traditional attitudes which hold that a woman's first responsibility is to her family. Although the government occasionally admonishes men to help out more at home, women tend to retain primary responsibility for household chores and child care, even though most also work full-time outside the home. Both women and their employers mention that these non-work responsibilities influence job performance and, thus, the ability of female employees to move ahead in the work arena. Employers are likely to see the balancing acts that women perform as evidence that women should not be hired or promoted as quickly-or compensated as well-as

Uneven access to higher education and training further undermines the ability of Chinese women to achieve equality in the work place. Despite the fact that PRC women today are vastly better represented in higher education than in previous generations, the gap between male and female education levels is still wide. While literacy rates for Chinese women have doubled in the last 50 years and their enrollment rates in tertiary levels of education have increased tenfold, twice

Indicators of Women's Status in Seven Countries

	China	India	The Philippines	South Korea	Sweden	Thailand	United States
Females in labor force (%) (ages 15+)	70	23	48	47	61	76	56
Literacy rate (%) (ages 15+)							
Female	68	34	93	95	NA	91	99
Male	87	62	94	99	NA	86	99
Females as % of males in post- secondary schools	52	51	147	60	NA	111	124
Females in parliament (%)	21	7	11	1	34	4	10
Females in ministerial positions (%)	6	6	8	4	35	0	15
Maternal mortality ratio*	95	460	100	26	5	50	8
Life expectancy							
Female	72	60	66	75	80	72	79
Male	69	60	63	67	75	67	72
Sex ratio at birth**	113.8	NA	109.3	113.1	105.3	105.5	105
1993 per capita income	\$490	\$290	\$830	\$7,670	\$24,830	\$2,040	\$24,750

SOURCE: Adapted with permission from "Chinese Women's Lives: Rhetoric and Reality," by Nancy E. Riley. *AsiaPacific Issues*, No. 25. Honolulu, HI: The East-West Center, September 1995.

NOTES: Figures are derived primarily from 1994 United Nations data.

NA = Not available

Maternal deaths per 100,000 live births

^{**} Males per 100 females

as many males as females were enrolled in post-secondary schools in 1990. And there are widespread rumors that women must achieve higher college entrance scores than men even to gain admission.

There is little likelihood that enrollment rates for women will improve, given that universities place a high premium on their ability to secure good positions for their graduates—and the fact that female graduates face bleaker prospects for employment. Female college graduates in the PRC frequently cite discrimination in job assignments and interviews. And young women in school tend to be encouraged to pursue jobs in fields such as teaching, which are traditionally considered suited for women. Indeed, virtually all of China's nursery school teachers and child care workers are women.

Why do women in China continue to receive less education? For one thing, parents are quicker to take their daughters out of school and put them to work within or outside the household. Many parents continue to see education as more valuable for boys than girls. Parents in families with limited resources consider educating daughters to be a poor investment, perhaps because traditionally in China daughters left their parents' homes after marriage. And, despite high levels of female participation in the work

have expanded
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force, their smaller paychecks reinforce the prejudice against spending scarce education resources on daughters.

Trends to watch

As labor reforms in general increase competition in the work place, some of the policies Beijing has instituted to help women advance have begun to backfire. For example, pregnant women in China are now entitled to a minimum of 90 days of maternity leave, according to the 1995 Labor Law. Factory managers consequently have even greater incentive to hire men, as they may fear that providing this benefit will erode productivity by encouraging absenteeism among female staff. Other labor policies, such as those designed to protect pregnant women from overwork and allow nursing mothers to take twice-daily breaks, also may contribute to an employer's belief that female workers are more burdensome. To skirt these policies entirely, some private and foreign-invested enterprises have been known to hire only single women and let them go when they marry.

In a society in which the wage gap tends to be narrower than in many societies, and where maternity and other social welfare benefits can be more valuable than wages, it matters where one works. The economic reforms have expanded entrepreneurial opportunities for some women, bringing them higher salaries and greater levels of independence as they become their own bosses. For other Chinese women, however, the socialist market economy means even less economic security.

What might the growing presence of private and foreign enterprises mean for China's women? And what do the new challenges facing Chinese women in the work force mean for foreign investors or managers? On the one hand, foreign employers need to consider not only the match of employee to job opening, but also must be aware that other issues will affect employee loyalty. Foreign firms that are known to shy away from hiring women with children, or who fire women once they marry, for example, may find it difficult to recruit well-trained staff. Many families are hesitant to allow more than one member of their household to risk working in foreign or private firms, which tend to let workers go more readily than SOEs. It is also possible that restructuring and downsizing in the State sector may cause new ripples in the labor pool, exacerbating gender discrimination, unemployment, and underemployment, all of which seem to hit women hardest.

On the other hand, the greater mobility of China's labor force that has resulted from the reforms to date can work to the advantage of both foreign ventures and the women they hire. Foreign-invested enterprises may find that they can attract and retain good workers-particularly women-by offering good benefits and salaries. While some women in China may be hesitant to seek positions in foreign firms, others may be eager for the challenge, particularly if they feel they stand little chance of rising through the SOE ranks. In foreign businesses, Chinese women may find greater opportunities to work in what are considered prestigious jobs, providing them with enhanced status, generous compensation, and better advancement opportunities. Indeed, some foreign enterprises have invested heavily in female workers and offer them ample maternity leave and other benefits, including housing. In many cases, these enterprises enjoy low turnover rates and a high degree of loyalty from their female employees. In a market such as China's, which is fraught with uncertainties, a reliable work staff can prove to be worth more than its weight in gold.

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Shoring Up the Bottom Line

■ Stephen C. Curley and Darren R. Fortunato

Savvy planning can help China investors avoid double taxation on their profits ncome taxes are often the largest single expense item on the income statements of successful enterprises in China and elsewhere. Because of their direct impact on profitability, tax considerations often dictate the structure of corporate investments. Inadequate planning, however, may make income—including dividends, interest, and royalties—liable to taxation by both China and the investor's country of residence. Foreign investors who use China's tax treaties to limit the overlap between competing tax systems can increase the after-tax return on their investments.

Generally based on the Organization for Economic Cooperation and Development's 1977 Model Treaty, PRC tax treaties have basic similarities to each other. However, particular provisions of individual treaties vary, such as the tax withholding rates for various types of China-source income (*see* table). China currently has income tax treaties with over 40 countries, including Australia, several members of the European Union, Japan, Singapore, and the United States.

China's tax treaties enable certain foreign business entities that are considered residents of treaty partner countries to conduct certain business activities on the mainland free from Chinese taxation. For example, under most treaties, exporters to China and enterprises performing services in China on a short-term basis that do not establish an office or set up a permanent establishment in China generally will not be subject to Chinese income tax. However, if a foreign enterprise has a permanent establishment in China through which the enterprise carries on business, the profits of that business will be subject to Chinese taxation.

Tax treaties may also entitle foreign investors to a reduction in the taxes China imposes on dividends, interest, royalties, or other distributions. Foreign investors may also be eligible for tax credits in their country of residence if they pay taxes in China either directly or indirectly through their Chinese entity. Moreover, tax-sparing clauses in treaties may grant credit for taxes which China would otherwise have imposed in the absence of tax incentives provided under Chinese law.

China's income tax treaties typically affect the application of the PRC's Individual Income Tax and the Income Tax for Foreign Investment Enterprises and Foreign Enterprises (Unified Foreign Tax), the principal tax laws applicable to foreign investors. The treaties apply to income taxes that are imposed directly on an enterprise or withheld on payments to foreign persons. However, the treaties do not apply to other PRC taxes that have a significant impact on foreign investment, such as the Value-Added Tax (VAT), Business Tax, Consumption Tax, and Land Value-Added Tax.

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Residents vs. non-residents

To be eligible for the tax benefits available under a treaty between China and a foreign partner, a foreign investor must qualify as a "resident" of a treaty partner country as defined in the relevant bilateral treaty. A resident of a treaty country generally includes any individual, company, partnership, or other body of persons, who, under the internal laws of that country, is liable to tax therein by reason of his or its domicile, residence, place of head office, place of incorporation, or any other criterion of a similar nature. For example, the Australia-China tax treaty defines a resident of a treaty country as a person fully liable to tax in that country by reason of being treated as a resident under that country's internal law.

Additional rules may limit the availability of treaty benefits. A 1986 protocol to the 1984 US-China treaty denies treaty benefits to an entity established in one of the treaty partner countries, such as China, if residents of the treaty partner country do not hold at least a 50 percent interest in the entity and the authorities of both countries agree that the entity became a resident of that country for the principal purpose of obtaining treaty benefits. This provision is intended to prevent foreign investors from "treaty

shopping," or establishing an entity in one country or another to get the benefit of the bilateral tax treaty between the two countries. However, interpretation of the protocol may be less than clear

Certain Chinese
tax treaties—
including those
with Korea, India,
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do not provide for
indirect tax credits.

when a US subsidiary of a non-US-based multinational makes an investment in China. Nonetheless, in most cases, the authorities will not view the US subsidiary as having been formed for the principal purpose of obtaining treaty benefits. China's tax treaties with countries other than the United States generally do not contain this type of benefits-limitation provision, presumably because

other countries are not as concerned as the United States is about treaty shopping in China.

The US-China treaty also provides that a foreign investor who qualifies as a resident of a third country pursuant to the terms of an income tax treaty between China and that country will not be considered a US resident for purposes of the US-China treaty. This provision is aimed at preventing an entity organized under US law, but actually managed and operated in a foreign country, from taking advantage of the US-China tax treaty.

The majority of China's tax treaties define a permanent establishment in the PRC as a fixed place of business such as a branch, office, or factory through which the business of the enterprise wholly or partly takes place. In addition, a permanent establishment may include the furnishing of services, if such services continue for more than six months within any 12-month period. Further, a foreign investor will be treated as having a permanent establishment in China if any person, other than an independent agent, habitually exercises the authority to conclude contracts on the investor's behalf within the country. Foreign investors involved in such preparatory or auxiliary activities as the use of storage facilities, purchase of goods, or collection of information, however, are generally excluded from the definition of permanent establishment.

Most Sino-foreign tax treaties entitle foreign investors in China to apply for direct and/or indirect credits in their country of residence for income taxes paid in China. Direct tax credits are those credits that are granted by the country of residence to a foreign investor who is subject to taxation in China. Indirect tax credits are credits a foreign investor receives from the country of residence for dividends obtained from a company subject to taxation in China and in which the investor holds a specific minimum equity interest. Certain Chinese tax treaties-including those with Korea, India, and Italy-do not provide for indirect tax credits.

Whether or not your home country's tax treaty allows you to receive both direct and indirect tax credits should influence your decision regarding the merits of establishing a branch office,

Tax Treaty Withholding Rates on Chinese-Source Dividends, Interest, and Royalties

Country	Dividends	Interest	Royalties		
Australia	15%	10%	10%		
Canada	10% ^a or 15%	10% ^b or 15%	10%		
France	10%	0% or 10%	10%		
Germany	10%	0% ^b or 10%	7% ^c or 10%		
India	10%	10%	10%		
Italy	10%	0% ^b or 10%	10%		
Japan	10%	10%	10%		
New Zealand	15%	0% ^b or 10%	10%		
Singapore	7% ^d or 12%	7% ^e or 10%	10%		
United Kingdom	10%	0% ^b or 10%	7% ^c or 10%		
United States	10%	10%	10%		

SOURCE: Stephen C. Curley and Darren R. Fortunato **NOTES:**

^c Applies to equipment royalties only. Higher rate applies to all other forms of royalties.

^a Applies if a foreign investor owns at least 10 percent of voting stock of FIE. Otherwise, higher rate applies.

b Applies to interest paid by Chinese entity to respective foreign government or agency thereof. Higher rate applies if interest is paid to non-government entity.

d Applies if a foreign investor owns at least 25 percent of the joint venture's shares. Otherwise, higher rate applies.

e Applies to interest paid to bank or financial institution. Otherwise, higher rate applies.

joint venture, or wholly foreign-owned enterprise (WFOE). For instance, to secure direct tax credits under the applicable tax treaty, a foreign investor from a country whose tax treaty with China does not provide for indirect tax credits may wish to operate directly in China as a branch of the foreign enterprise.

However, by operating directly in China, the foreign investor may be subject to current taxation in his country of residence on his Chinese-source income. In such a case, a foreign investor who is a resident of a high-tax jurisdiction may prefer to operate indirectly through a joint venture or WFOE, rather than directly through a branch office. Establishing a joint venture or WFOE allows the investor to be subject only to China's lower effective tax rate, which would be especially beneficial in cases where the foreign investor from a high-tax jurisdiction intends to reinvest profits in China, since these ventures are considered separate entities from the foreign parent and can thus avoid the higher tax rate in the home country.

Setting up shop

Assessing the tax ramifications of a proposed investment is an important first step for any firm establishing a presence in China. China imposes the Unified Foreign Tax on equity and contractual joint ventures and WFOEs, as well as on foreign branches and other foreign enterprises operating in China. All of these foreign enterprises operating in China are generally subject to a 30 percent central government enterprise income tax and a 3 percent local income tax. Depending on where it is established and the type of business it engages in, an FIE may be eligible for significant tax holidays and/or tax rate reductions. For example, a "production-oriented" FIE that is scheduled to operate for at least 10 years is entitled to a two-year exemption from the enterprise income tax beginning with its first profitable year, followed by a three-year, 50 percent reduction in the enterprise tax. China grants additional tax holidays and rate reductions to FIEs engaged in certain sectors or in certain preferential zones (see The CBR, May-June 1995, p.17).

Foreign enterprises looking to establish production or business operations in China should pay close attention to the particular terms of the applicable treaty, as different types of investments may have more favorable tax consequences.

By operating directly in China, the foreign investor may be subject to current taxation in his country of residence on his Chinesesource income.

Representative offices, for instance, are established by foreign investors looking to engage in liaison, marketing, and market research activities in China (see p.30). By establishing the representative office as an office of the parent company and by limiting the office's activities so as not to engage in the negotiating and concluding of contracts and sales-which are technically outside of the allowed scope of representative office activitiesthe foreign investor may avoid permanent establishment status as defined in certain treaties, and thus remain exempt from taxation in China. Unlike the US-China treaty, the Japan-China treaty contains a protocol that excludes consulting services related to the sale or lease of machinery or equipment from the definition of permanent establishment, enabling some Japanese representative offices to avoid PRC taxes.

Tax treaties play a less useful role in reducing taxes for joint ventures and WFOEs since both are considered permanent establishments in China. Further, since the Unified Foreign Tax exempts profits (dividends) received by a foreign investor from an FIE from withholding tax, foreign investors need not resort to a treaty to obtain a reduction in the withholding rate on dividends.

A foreign investor in a joint venture or WFOE may seek direct or indirect tax credits in its country of residence for the payment of Chinese taxes, depending on whether the investor's national tax law classifies the FIE as a "pass-through" entity, such as a general or limited partnership, or "corporate," or separate, entity. In the case of an FIE classified as a passthrough entity, a foreign investor may be entitled to claim direct tax credits. Most foreign investors in corporate entities may claim indirect tax credits in their country of residence for Chinese taxes paid by their FIEs, under either an applicable treaty or the internal law of their country of residence. Investors unable to claim indirect tax credits with respect to a corporate FIE may decide to pursue direct tax credits by establishing a branch office of the parent company.

Big breaks

More significant than tax credits, which merely reduce the incidence of double taxation, are the provisions of certain Chinese tax treaties permitting "tax sparing." Intended to allow investors to retain the benefits attributable to Chinese tax incentives without reducing foreign tax credits in the investor's country of residence, tax-sparing clauses entitle foreign investors to claim foreign tax credits that exceed the amount of tax actually paid in China. The tax-sparing clause deems a foreign investor to have paid, for foreign tax-credit purposes, the full amount of tax due to China, even if its PRC enterprise, in fact, paid less or even no tax as a result of special exemptions or rate reductions for foreign investors.

Tax-sparing clauses may also apply in the context of dividend, interest, and royalty payments. China's tax authorities generally impose a 20 percent withholding tax rate on such payments, and, while certain treaties contain more or less favorable rates, the typical treaty reduces the rate of withholding tax on all of these items of income to 10 percent. In the event that Chinese internal law or the applicable tax treaty reduces this rate, for foreign tax credit purposes, taxsparing clauses may deem the foreign investor to have been subject to a rate higher than the actual rate. However, this deemed rate may in fact be lower than the usual 20 percent rate. For example, if Chinese internal law or the applicable treaty reduces the withholding rate on

interest to 10 percent, but the relevant tax-sparing clause deems a 15 percent rate to have been paid, the foreign investor will be entitled to a credit based on the 15 percent rate (instead of either the general 20 percent rate or the actual 10 percent rate), even though he pays tax on a 10 percent rate.

How each bilateral tax treaty incorporates tax-sparing clauses varies substantially. China has negotiated mutual taxsparing clauses with several lessdeveloped countries as well as unilateral tax-sparing clauses that are available only to foreign investors in China but not to Chinese investors in the respective treaty partner country. While the United States has refused to agree to tax-sparing arrangements with China or other countries, the United States has agreed to incorporate a tax-sparing clause in its treaty with China if the United States agrees to a tax-sparing clause with any other country at some future date. However, any such policy change is not expected in the near future.

For multinationals, the decision as to which subsidiary should make the China investment is an important planning choice.

The lack of a tax-sparing clause in the US-China treaty has encouraged some US companies to formulate their investment strategies in a way that takes advantage of another country's tax treaty with China. For instance, to benefit from tax-sparing provisions in the Sino-Singapore tax treaty, a US investor may choose to invest in China through a Singapore subsidiary, rather than invest directly. Other factors, including the internal tax laws of the United States and Singapore, and the

decision to retain income in either a US or Singapore entity, will affect the actual structure used—in view of possible Singapore taxation of income and the potential imposition of Singapore withholding tax on profit distributions to a US parent.

Choosing wisely

Foreign investors can use tax treaties with China to obtain the most favorable possible tax treatment. The decision whether to invest or operate in China directly as a representative office, a branch of a foreign enterprise, a joint venture or a WFOE, and, for multinationals, the decision as to which subsidiary should make the China investment are two important planning choices for foreign investors. While many firms hope to participate in China's flourishing economy, those that understand and take advantage of the country's tax treaty incentives will have a leg up in creating a solid foundation for a successful long-term investment.

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Easing Your Way Into China

■ Jay Rothstein

Opening a representative office affords a low-risk presence in an emerging market

s China's interactions with the global marketplace increase, the opportunities for foreign investors continue to multiply. Foreign companies can now choose from a range of officially sanctioned investment vehicles, from wholly foreign-owned enterprises (WFOEs) to joint ventures and representative offices (see The CBR, May-June 1995, p.10). Though large investment projects may receive more publicity, the representative office (dai biao chu) option is one of the best ways for foreign companies to establish a foothold in China's volatile market-or at least test the waters before taking the plunge of forming a joint venture or WFOE.

By law, representative offices are prohibited from engaging in direct, profit-making business activity in the PRC, but are allowed to undertake non-commercial activities—including business communication, product promotion, market research, contract administration, and negotiations—on behalf of the head office. Equally important, they can also act as liaison to potential Chinese trading partners, as well as to various PRC commercial and government offices, and can lay the foundation for further investment by promoting the foreign company's name.

Among the most common forms of foreign commercial involvement in China, representative offices in 1994 numbered 24,402 nationwide. Corporate giants like Bechtel Corp. and Apple Computer Inc. have had representative offices in China for at least 10 years, allowing these companies to explore business prospects in areas ranging from sales to manufacturing.

Square one

Once a foreign company decides to establish a representative office in China, approval from PRC authorities can be obtained in as few as six weeks. The first step in the approval process begins with the foreign company identifying a Chinese host organization to sponsor its application to establish the representative office. Companies in certain industries are restricted to specific sponsors. Banking and insurance firms must be sponsored by the People's Bank of China (PBOC), for example; companies in aviation must have the General Administration of Civil Aviation (CAAC) as their sponsor; and maritime and shipping firms must be sponsored by the Ministry of Communications.

The foreign company submits its application to the host organization, which then passes it to the relevant approval authority. The approval authority varies depending on the applicant's line of business, but is usually the government ministry responsible for that sector or business. For companies in trading, manufacturing, underwriting, consulting, and advertising, the approval authority is the Ministry of Foreign Trade and Economic Cooperation (MOFTEC), or the lo-

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cal commission on foreign trade and economic cooperation for the jurisdiction in which the proposed representative office will be established. For financial enterprises, PBOC is the approving body; and for companies involved in air transportation, CAAC administers approvals. Approval comes in the form of a letter to the host organization and is valid for three years.

Once the foreign company receives formal approval for its representative office, the registration process can begin. Within 30 days of receiving the letter of approval, the applicant must present the local bureau of the State Administration of Industry and Commerce (SAIC) with ¥600 (\$73) and six documents: the approval letter issued by the approval authority, the company's certificate of incorporation from the home country, an application letter signed by the company chairman, a capital credibility certificate. a brief resume of each of the representatives, and a SAIC application form completed in Chinese and English. If all the documentation is in order, SAIC will issue an office registration certificate and a representative office certificate, both of which are valid for one year. The applicant must also register with the Public Security Bureau, PRC Customs, and the State Administration of Taxation, each of which has its own documentation requirements.

The final step in the process is to open a bank account at the local branch of the Bank of China (BOC) or other Chinese bank. Though the representative office registration is valid only for one year, the renewal process simply requires that the sponsor submit a new registration application form with supporting documents, which can consist of the same forms originally submitted. Once a foreign company registers a representative office, the office is permitted to maintain a company bank account, obtain telecommunication lines and equipment, and help arrange visas for business visitors through its sponsor.

Choosing a sponsor

Though still required by law, the sponsoring organization plays a lesser role in the approval and operation of a representative office than in the past. In the early 1980s, many host organizations ac-

A sponsor can influence the operation of the representative office by facilitating contact with government agencies and arranging high-level meetings.

tually conducted business with the representative office, and all were responsible for taking care of visa and travel permits for the foreign representatives. Now, the sponsor's only legally mandated function is to submit the application for a representative office on behalf of the foreign party and follow up with yearly renewal applications. But a sponsor can also play an important role in the representative office's operations by facilitating contact with government agencies and potential clients, arranging high-level meetings, and laying the groundwork for any future joint ventures with the foreign company.

Foreign affairs departments and companies under the ministries can also act as sponsors. Major import-export companies under MOFTEC often act as default sponsors for many foreign firms. In addition, financial institutions such as China International Trade and Investment Corp. and BOC, private Chinese companies, and management service companies such as the Foreign Enterprise Service Corp. (FESCO) can serve as sponsors.

In recent years, "one-stop shops" specializing in handling all matters relating to the approval of foreign-invested enterprises have been created in several cities, including Beijing, Guangzhou, and Shanghai. In addition to taking care of all approval matters—in exchange for a fee ranging from \$500-\$2,500—these one-stop shops can also act as sponsors for representative offices.

Though some foreign companies try to select a sponsor whose line of business or responsibility differs from their own to avoid conflicts of interest or unwelcome involvement by the sponsor in the firm's affairs, others recognize instead the importance of a potential sponsor's place within the Chinese bureaucracy. Because

many representative offices serve principally as liaison centers, they may benefit from the ability to gain meetings with high-level officials through a sponsor with sound connections.

On the up side

Though foreign companies can conduct business in China without establishing an office there—foreign businesspeople can sell directly or through agents, and provide services on a short-term basis—certain activities require that the foreign entity have a registered representative office in China. For example, providing after-sales service, including installation, maintenance, training, or onsite surveys and designs, may require the foreign party to operate through a representative office or some other permanent structure.

The greatest advantages the representative office has over other investment vehicles are its simplicity and flexibility. Unlike a joint venture or WFOE, a representative office gives a foreign company a formal presence in China without the complications of an unfamiliar local partner or hefty financial commitment. A representative office, unlike other foreign investment vehicles in China, has no minimum registered capital requirements. John Huang, managing partner of the Great Wall Law Firm representative office, estimates that the average start-up costs for a representative office total approximately \$10,000.

Full operating costs can be steep, however, especially if the representative office desires prime office space. A 1994 *Economist Intelligence Unit* report indicated that the average annual cost for a full-time representative office in Beijing, including salary and accommodations for an expatriate chief representative, was \$700,000. Nevertheless, foreign companies find the investment of resources an invaluable way to become familiar with the PRC business environment before making a major commitment—or deciding against the China market altogether.

One of the most flexible features of the regulations governing the establishment of representative offices is the lack of restrictions on the line of business in which the applicant can engage. Joint ventures and WFOEs, by contrast, often must participate in sectors and industries Beijing considers

important to the development of the nation's economy. This flexibility can be enormously useful for companies in media communications, for example, a field in which the government discourages foreign participation beyond the representative-office level. Closing down a representative office is also relatively easy compared to terminating a joint venture. For the foreign company that seeks to wade further into the China market, moreover, a representative office can be converted into a joint venture or wholly owned enterprise.

Because the representative office operates solo, without a Chinese partner, it can proceed with liaison, market research, and consulting activities in whatever fashion it sees fit. Such autonomy makes the representative office an ideal means to explore further investments in China, establish a presence in other regions of the PRC, or arrange future investment projects. Foreign companies in restricted industries such as banking and insurance also have found that the establishment of representative offices offers them a platform from which to try to convince Chinese government officials to open these sectors to foreign activity. Citibank Corp., for example, recently obtained approval to open a Beijing branch office. Company officials have expressed the firm belief that the bank's representative office in Beijing played a key role in the branch's approval.

Finally, the representative office can have certain advantages over joint ventures when it comes to staffing. Joint ventures, which must act in conjunction with a Chinese partner, frequently have problems recruiting qualified employees. Representative offices have little problem attracting talented Chinese college graduates, who see employment at a foreign representative office as a way to gain exposure to the world of international business.

The downside

The most significant drawback to the representative office remains the prohibition on direct, profit-making activities. Technically, a representative office cannot issue invoices or receive payment directly for its services to Chinese customers, or finalize any agreement on behalf of its parent company without being subject to fines of up to ¥20,000 (\$2,440).

Many representative offices prefer to recruit Chinese staff directly through job fairs and local contacts, though employees recruited through such means still must contract with a management service company.

In practice, however, business is the name of the game. Some companies risk the stiff fines and perform a variety of services for which they charge fees. Other firms conduct activities that may result in future profits once the company reorganizes its China operations into another structure, while still others establish representative offices in parts of the country where they have no operations as a way to facilitate the business activities of approved branches in other cities in China.

Moreover, even though they may not engage in any profit-making activities, representative offices do not escape the grip of tax authorities. A representative office has to pay duties on all imported office equipment, for instance. And if Chinese tax authorities determine that some portion of the profits of a foreign company are attributable to its representative office, the company is liable for Chinese corporate income taxes. Authorities will use "deemed profits" as a basis on which to assess taxes, unless the representative office supplies tax authorities with information on actual profits.

Staffing a representative office also is not hassle-free. Even if it finds the right personnel itself, a representative office can officially hire local employees only through one of the four approved management service companies. This is an improvement over the situation which existed up until mid-1995, when FESCO was the only such company. FESCO located candidates, assigned them to rep-

resentative offices, received the wages for the employees directly, and paid out their wages-minus a hefty 50 percent or more to cover its fees and limited employee benefits. The latest regulations, effective July 1, 1995, also allow China International Enterprise Cooperations Corp., China International Intellectech Corp., and China International Talent Development Center to hire Chinese employees for foreign firms. Chinese management service companies now withhold a maximum of 50 percent of gross pay. Most FESCO employees are now able to take home 55 or 60 percent of their pay.

Foreign companies are apparently satisfied-for the most part-by the addition of more management companies from which to contract Chinese staff. But many representative offices prefer to recruit Chinese staff directly through job fairs and local contacts, though employees recruited through such means still must contract with a management service company. According to a 1994 US-China Business Council survey of 100 representative offices, the average salary for a Chinese representative-office employee (the monthly fee paid to the management service company) was ¥3,700 (\$430). The average monthly bonus, however, equaled ¥2,777 (\$323)-an additional 75 percent of salary. Representative offices tend to pay a substantial bonus directly to the employee to compensate for the low net pay resulting from the management service company's withholdings.

Weighing the options

Several large multinational firms, including General Motors Corp., International Business Machines Corp., and Hewlett-Packard Co., have operated representative offices in China for many years. Many continue to use the representative office as their company's China headquarters even after they have established other types of ventures in China. Because the lag time between conceptualization and realization of a company's "China operations" via the establishment of a representative office can be relatively short, this investment option can be an invaluable way to sample the fruits of China's current eco-完 nomic dynamism.

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Buying a Piece of PRC Industry

■ Helen Ho

The investment options have widened, but the risks remain

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he widely publicized reports of foreign companies acquiring all or part of Chinese enterprises testify to China's great leap into the age of corporate finance. In the early 1990s, for example, an investment company listed on the Hong Kong Stock Exchange took majority control of nearly 200 Chinese factories previously owned by local or provincial governments. After infusing capital and management expertise into some of the newly acquired factories and consolidating them under offshore holding companies, the Hong Kong firm was able to sell public shares of the holding companies at a profit. In another case, Ford Motor Co. opted to buy into a Chinese truck manufacturing company in Jiangxi Province by acquiring some of the Chinese company's newly issued shares. Ford reportedly took a 20 percent equity stake in the PRC company

While many foreign investors in China pursue traditional start-up joint ventures, others look to buy into pre-existing enterprises as a quick way to gain a toe-hold, particularly in sectors formerly restricted to State-owned enterprises (SOEs). In many sectors of the economy, the PRC government now permits for-eigners to purchase all or part of the ownership interests of a wholly Chinese-owned or Sino-foreign joint venture. Given the Chinese economy's growth potential in the coming century, many

investment advisers believe that PRC enterprises in expanding industries, or those holding under-utilized assets, are prime targets for acquisition by foreign investors.

Zeroing in

Acquisition fever in the PRC first struck in the early 1990s, when the modern PRC corporation took shape under the guidance of opinions issued by the State Commission for Economic Restructuring. Several laws and regulations, notably the Company Law enacted in December 1993, permit limited liability companies to raise capital through the issue of shares. Foreign investors looking to acquire a piece of Chinese industry can now establish a joint-venture company limited by shares (limited company) or buy "B" shares (denominated in hard currency) of one of the 300 or so former SOEs listed on the Shanghai and Shenzhen stock exchanges.

Since 1992, Beijing has allowed 31 SOEs to list on international stock exchanges, which denote the shares by different names according to the bourse—N shares are listed on the New York Stock Exchange, while H and S shares are listed on the Hong Kong and Singapore exchanges, respectively (*see The CBR*, January-February 1993, p.50). Chinese companies have raised more than \$5.6 billion to date by floating B and H shares.

For a foreign investor, the advantage of entering the China market through the acquisition keyhole is that many SOEs, though currently in the red, have the potential to operate profitably if provided with the right mix of capital, management, and technology. Some foreign investors, particularly in the heady days of 1992-93 when the latest cycle of economic growth was just starting to take off, saw the need to act before the window of opportunity closed. But in an economy with about 9.9 million industrial enterprises, including over 100,000 SOEs, investment possibilities are not likely to vanish overnight. Though the Chinese government continues to declare that ownership of some 1,000 key SOEs will remain in government hands, this still leaves a huge number of enterprises to be cut loose from State support. Thus, foreign investors likely will have many chances to buy into enterprises in different sectors and regions. Investors buying a stake in a Chinese company, however, must evaluate thoroughly the risks and recognize that government approval for the transfer of ownership and clearance of property title often constitute difficult hurdles to overcome.

For political reasons, the largest SOEs, which are likely to be in sectors deemed critical to Beijing's development plans, tend to be beyond acquisition. And although many small enterprises are poor investments, the buying fever has attracted some PRC investors to such firms. In a 1992 auction in Shanghai of seven small, bankrupt, State- and collectively owned retail stores, a Chinese investment group from Zhejiang Province outbid many Shanghai-based investors to acquire six of the seven stores. The investment group's head explained that even though he may have paid a premium for the stores, the favorable media publicity generated for his group by the bidding was worth far more than the actual price paid.

The companies in China that are most attractive to foreign investors and in which foreigners are permitted to exercise management control tend to be medium-sized, regionally based SOEs controlled by provinces or localities—or Sino-foreign joint ventures, which have a higher degree of autonomy than SOEs. Many of the SOEs have been restruc-

tured into limited companies, allowing foreign investors to buy into these kinds of firms by purchasing company shares. But restrictions remain—each SOE restructuring and subsequent listing is sub-

With about 9.9 million industrial enterprises, including over 100,000 SOEs, acquisition opportunities in the PRC are not likely to vanish overnight.

ject to PRC government approval, and Chinese officials usually stipulate limits on the extent of foreign ownership interest in SOEs.

Experts advise that the best PRC acquisition targets are enterprises with strong market niches in sectors with potential for growth. For example, the increased computerization of the Chinese economy has translated into heightened demand for Chinese-language software. Recently released PRC figures indicate that currently there are about 200 software development firms in China, employing 300,000 people with a total output of ¥12.5 billion (\$1.5 billion). The State has made public its commitment to increase the softwaredevelopment talent pool and to enforce intellectual property laws rigorously. Consequently, with the addition of capital and management expertise, China's software industry could take off guickly.

Caveat emptor

When the Chinese government granted permission to the initial nine enterprises in 1992 to list on international stock exchanges, many of these companies dazzled foreign investors with their projected per-share earnings. The value of many of these stocks, however, has fallen significantly since the initial public offerings. Some of the companies attribute the drop in share prices to the

tight credit and price controls imposed by the central government, which hindered these firms' ability to realize their profit goals. Others claimed that the lackluster performances were due to the lack of new management talent necessary to carry out the promised transformation from State-owned, command structures to autonomous and competitive businesses.

In evaluating potential acquisition targets, foreign investors should be aware that domestic enterprises or enterprise groups enjoying State support may prove fierce competitors to even the most promising restructured enterprise. To use the software industry as an example, China announced in September 1995 progress in developing Statefunded operating system software, just as Microsoft Corp. began promoting its Chinese version of the Windows 95 operating system. While not in direct competition with Microsoft, the State has no intention to cede the development of the country's software industry to foreign companies.

Further, analysis of investment risk in China must take into consideration the specifics of a locality, including the workings of the local bureaucracy and transportation links, since regional rivalries and aged and inadequate infrastructure hamper the efficient movement of goods, information, services, and labor throughout many parts of China.

Investors who choose to invest in Chinese companies by buying shares alone should not be deluded into thinking that they will have a significant voice in running the company. Because foreign investors in a large Chinese enterprise are limited to a minority shareholding position, either in practice or by law in sectors restricted to foreign investment, the investors lack the ability to challenge the decisions of the board of directors, which is usually controlled by Chinese shareholders loyal to the State. The Company Law lacks any provision for minority shareholders to challenge the decisions of the board of directors, as minority shareholders are able to do in the United States through a derivative lawsuit.

And, while the transformation of China's State enterprises into shareholding companies can happen on paper overnight, the culture of State domination

remains strong, thwarting the implementation of efficient business practices. In China, a fundamental ambiguity remains between "shareholding" and "control." For example, a petrochemical company may be required by the quasi-governmental China Petrochemical Corp. (SINOPEC) to pay certain prices for raw materials and adopt set prices for its final products, even if SINOPEC holds no shares in the company. Many Chinese shareholders, moreover, are typically agents of the State or SOEs, making it less likely they will set the maximization of profits as their highest priority. The term "red capitalist" is often used to refer to majority Chinese shareholders who claim to be committed to the bottom line but are reluctant to reduce the numerous welfare benefits of Chinese employees or lay off redundant workers.

Chinese boards of directors may also extend their powers into areas in which legal norms are still evolving or are nonexistent. Tsingtao Brewery Co., a limited liability company with about 35 percent of its shares in foreign hands, failed to live up to statements in its 1993 prospectus that it would double existing production using publicly raised funds. The company's 1994 profits and market share dropped significantly and Tsingtao share prices plummeted. In 1995, the company's board found itself under criticism for allegedly lending out over \$71 million raised from public offerings in Hong Kong and Shanghai to other Chinese entities. In April, Tsingtao shares were temporarily suspended from trading on the Hong Kong Stock Exchange because of concerns about the company's liquidity. Leaving aside the question of whether it is more profitable to make beer or lend money, Tsingtao's troubles stemmed from the management's failure to observe international practice that considers commitments to shareholders binding.

Share acquisition, of course, is not the only risky business around. Investors who choose the more traditional approach of establishing a start-up joint venture with a Chinese company—where considerable experience and established laws would seem to offer a greater degree of investor protection—face risks as well. Matsushita, the Japanese electronics giant, hoped to capitalize

on an existing Chinese company's extensive domestic sales networks to tap the domestic market. Matsushita formed a joint venture with Hualu Electronics Corp. (Hualu), a corporation created by

A fundamental ambiguity remains between "shareholding" and "control."

the Ministry of Electronics Industry in 1993 by combining 10 enterprises located in different provinces and municipalities. The original business plan was for the joint venture, China Hualu Matsushita Video Co. Ltd., to export 20 percent of its production of videocassette recorder (VCR) components, with the remaining 80 percent to be sold to Hualu for incorporation into VCRs to be sold on the domestic market. But most of the 45 production lines in the joint venture's brand-new Dalian factory have lain idle since the factory opened in 1994. An article published in China Daily in May 1995 blamed the venture's poor performance on widespread smuggling of VCRs from outside China and the inability of Hualu to absorb the joint venture's output. Reportedly, Hualu Matsushita is now planning to export its components to a Matsushita subsidiary in Japan, scrapping the original goal of selling to the large Chinese domestic market.

Greener pastures

There are some bright flickers of promise. The Chinese press, of course, is eager to highlight successful acquisitions, particularly those involving Chinese individuals who purchase PRC factories outright. In one case, a collectively owned plastics factory in Dalian was put on the auction block in October 1994. The factory had not made a profit since its formation in 1988 and had debts of ¥1.7 million. After a former factory manager purchased the plant and secured a long-term supply contract with a US buyer, the company began posting profits. The new owner attributed his success to the factory's commitment to meet

the buyer's quality specifications and delivery schedule instead of merely offering "preferential" sales terms like his competitors.

In another case, a bankrupt precision instrument factory in Dalian purchased by a former worker of the factory began turning a profit after it introduced aftersales service and warranties. While the reasons for success in restructured Chinese enterprises—offering a good product, developing new products and markets, and ensuring customer satisfaction—come as little surprise to Western-trained businesspeople, many PRC entrepreneurs are just now learning these lessons. Foreign companies that invest early in the most forward-thinking Chinese ventures stand a better chance of profiting.

Know the market

Due diligence should always be on every investor's mind, but perhaps even more so when reviewing potential acquisition opportunities in China. An investor should use pre-commitment negotiation sessions to gain a better understanding of a venture's operations, the relevant Chinese government oversight bodies, and the regional and local markets in which the business operates. Foreign investors who acquire shares in or assume partial ownership of enterprises in the PRC should be aware that these enterprises may be required to absorb at least a portion of China's large excess labor force. The triangle debt problem-when companies find it next to impossible to collect on accounts receivable from SOEs that are themselves in arrears-will also certainly continue to be a serious problem for most enterprises. Some of the privileges enjoyed by SOEs, such as access to bank credit and lax loan repayment terms, may be withdrawn once an SOE is restructured and partially in the hands of foreign investors. Recent press reports suggest that the enthusiasm to go international on the part of some of the SOEs that have received approval to list abroad has waned. Some are even reluctant to proceed with overseas equity offerings for fear of losing their preferential treatment by the State.

As is the case with any PRC investment, foreign businesspeople must understand that commercial laws are not uniformly enforced in China. The Chi-

nese government uses law in many cases as a way to control foreign investment and to curtail what it deems to be unacceptable business practices. Centrallevel policy pronouncements are often vague and may be enforced or revised depending on the direction of the political wind. Further, China's leaders make no bones about their intent to protect domestic industries and accept foreign participation only to the extent necessary to foster the regime's economic goals. In the State Planning Commission's July 1994 industrial policy for the automotive sector, for example, the government made clear that sole foreign ownership of automobile factories is prohibited and only foreign companies approved by the central government can negotiate with selected Chinese companies to form joint-venture manufacturing plants. Similar moves have been made to support the local electronics industry, although the detailed industrial policy documents have yet to be made public.

China's leaders will welcome foreign investment—and foreign shareholding—

that bring in capital and technology as long as the growth and development of domestic industries are nurtured. Barring political upheaval, the PRC's budding private sector is likely to thrive and con-

China's leaders
make no bones
about their intent
to protect domestic
industries.

tinue to grow in the shadow of its huge State cousin in the years ahead. Marketoriented economic reforms in China have progressed too far for the government to rein in the private sector and revert to central planning. In cases where the State sector's interests conflict with those of the private sector, however, government officials likely will continue to favor State enterprises.

Because the PRC lacks sufficient capital, technology, and management knowhow to meet the needs of industries that are not deemed "priority," foreign acquisition of Chinese enterprises can benefit both sides: newly privatized and growing Chinese enterprises can gain easier access to much-needed capital for expansion while formerly idle or underutilized assets can be put to profitable use. As the track record to date indicates, however, such turnarounds can occur only with substantial commitment of funds, management resources, and patience. The PRC government, for its part, would do well to build on the Company Law by spelling out shareholders' rights and providing an impartial institutional mechanism to enforce such rights, if it sincerely desires foreign participation in the overhaul of State industry. Until Beijing develops a more detailed body of corporate law, China will remain a rugged, though promising, frontier for foreign investors.

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New Rules of the Game

■ Peter J. Halasz and Lan Lan

MOFTEC promulgates the long-awaited CJV implementing regulations he idea of forming a joint venture has lured many foreign business-people to China since foreign investments were first permitted in 1979. Until September 1995, however, cooperative joint ventures (CJVs) operated without specific regulations. With the release by the Ministry of Foreign Trade and Economic Cooperation (MOFTEC) of new CJV implementing rules, investors can now use this option with greater confidence in its legal underpinnings.

Foreign investors establishing joint ventures in China must choose between two distinct legal forms of joint ventures, depending on their investment needs: the equity joint venture (EJV), authorized by the Law of the People's Republic of China on Sino-Foreign Joint Equity Enterprises (EJV Law) and generally akin to a corporate entity under US law; and the cooperative joint venture, governed by the Law of the People's Republic of China on Sino-Foreign Cooperative Enterprises (CJV Law).

Unlike an EJV, in which profit distributions and management of the venture are determined by the proportion of total registered capital contributed by each partner, the CJV—also referred to as a contractual joint venture—is an investment vehicle in which profits and other responsibilities are assigned to each party according to the joint-venture contract. While implementing rules for the

EJV Law were issued in 1983, the absence of CJV implementing rules discouraged somewhat the use of this joint-venture option. In 1993, for example, foreign investors in the PRC established 54,003 EJVs, compared to only 10,445 CJVs.

Like the EJV Law, the CJV Law provided few guidelines on how to implement its vague provisions. Progress on developing implementing rules to clarify the CJV Law apparently stalled after the Tiananmen Square incident in June 1989. In the absence of full CIV implementing rules, investors opting to form CJVs were forced to use the EJV implementing rules as a rough guideline and hope for consistency. It was not until late 1992, after Deng Xiaoping's visit to southern China, that the climate for further legal reforms improved. However, a regulatory backlog left CJVs in legal limbo until now.

New features

Though the CJV implementing rules hold few surprises, investors leery of legal ambiguity welcome their release, as the rules detail the rights and obligations of parties to a CJV and of the CJV itself. Provisions within the implementing rules address establishment of a CJV; liability and registered capital requirements; equity investment for a CJV; management structure; sourcing, sales, and distribution; term and dissolution of

■ Peter J. Halasz is counsel to, and Lan Lan is an associate with, the law firm of Skadden, Arps, Slate, Meagher & Flom in New York. a CJV; and Chinese legal person status options, among others.

The CJV implementing rules add several new features to this investment vehicle. The most important issues address:

Liability A CJV is allowed to adopt non-legal person status, which was assumed but unclear under the CJV Law. The liability of investors in a joint venture with legal person status is limited to the amounts they have invested, while the liability of investors in a venture with non-legal person status is unlimited. Under the EJV Law and implementing rules, legal person status is automatic for EJVs; under the new CJV implementing rules, CJVs may elect either status.

CJV investors in China may be able to use the unlimited liability conferred by non-legal person status in the tax structuring of their PRC ventures. For instance, under US tax law, in some circumstances the existence of unlimited liability can facilitate the partnership (or pass-through) status of a CJV (see p.26). Entities having partnership status are generally not subject to the complex rules governing controlled foreign corporations, foreign personal holding companies, or passive foreign investment corporations under US law.

■ Capital requirements The new rules specifically require foreign investors in CJVs with legal person status to contribute 25 percent or more of the venture's total registered capital. This requirement, which parallels Article 4 of

the EJV Law, does not apply to CJVs that adopt non-legal person status. However, MOFTEC must pass further rules to clarify the minimum registered capital contribution for foreign investors

The new rules help investors decide between CJVs and EJVs.

in non-legal person status CJVs. Prior to the new rules, in practice, 25 percent was generally assumed to be the minimum amount that a foreign investor could contribute to a non-legal person status CJV.

■ Import tax exemption Like the EJV rules, the CJV implementing rules exempt the venture from paying transfer taxes and duties on imports of equipment to be used as part of the foreign partner's investment in the enterprise, or purchased from abroad by the CJV, provided the equipment is required for the operation of the joint venture and is valued at no more than the total investment amount specified in the CJV contract.

The presence of this clause in the CJV implementing rules has raised some investor eyebrows because it seemingly

negates statements by Chinese officials that the tax and duty exemptions for CJV- and EJV-imported capital goods will be abolished in early 1996. Inclusion of this provision in the CJV rules may have been intended to put CJVs on an equal legal footing with EJVs, even though both vehicles appear likely to lose this benefit once Chinese officials issue their final decision on the exemption policy. However, because certain foreign-funded projects may be "grand-fathered" if the capital import tax exemption is revoked, this provision may continue to be of importance.

■ Management structure Articles 25 and 26 of the new rules, which deal with management issues, generally parallel Article 6 of the EJV Law and Article 34 of the EJV implementing rules. Further, Article 29 provides that certain management decisions-such as those regarding increasing the total registered capital of the venture, dissolving the enterprise, and changing the management structure-require unanimous approval of the board of directors or, in the case of CJVs with non-legal person status, of the joint management committee. This provision makes unanimity requirements, as well as other management provisions, generally the same for CJVs as for EJVs.

EJVs vs. CJVs

At the very least, the release of the new rules allows foreign investors to make more educated decisions about the form their China joint venture should take. A careful reading of the EJV and CJV implementing rules reveals that a CJV differs from an EJV in several distinct ways.

First, as was the case prior to the issuance of the implementing rules, profit distributions among parties to a CJV need not be in strict proportion to their registered capital contributions. As stipulated by Article 22 of the CJV Law and Article 44 of the new implementing rules, the foreign party may recover its investment earlier than the Chinese partner(s) upon meeting certain conditions, including reversion of all fixed assets to the Chinese partner. In contrast, the parties to an EJV can distribute profits only in strict proportion to their contributions to the EJV's total registered capital. Moreover, Article 43 provides that a CJV may distribute profits both in cash and



in venture output, while an EJV is restricted to making cash distributions.

Second, the CJV's ability to adopt nonlegal person status also distinguishes it from an EJV. Besides affecting the liability of the joint-venture partner, non-legal person status may allow foreign CJV partners to contribute less than 25 percent of the total registered capital of the joint venture, though MOFTEC rules may alter this feature down the road. Foreign partners in an EJV must contribute a combined minimum of 25 percent of a venture's registered capital.

Third, Article 37 of the CJV implementing rules does not require a CJV to survey Chinese sources before importing supplies or raw materials from abroad, while Article 57 of the EJV implementing rules suggests that an EJV must give first priority to Chinese suppliers.

Despite the advantages of CJVs, investors should keep in mind that the EJV Law and implementing rules have been used and tested for more than 10 years. As a result, the approval and contract-drafting process for an EJV will probably continue to be smoother because the parties to the venture—and Chinese approval authorities—are more familiar with the legal requirements pertaining to this type of joint venture. Nevertheless, the new implementing rules should streamline considerably the approval process for CJVs.

Parties to pre-existing CJVs may be less enthusiastic about the new rules than potential CJV investors. The CJV implementing rules are, in fact, quite vague on their application to existing CJVs. The last article states that "These rules shall be effective from the date of promulgation," which can be interpreted in two ways: either the rules apply *only* to CJVs established after the promulgation date, or the new rules apply to *all* CJVs in existence after September 4, 1995.

Unfortunately, documented precedents and the legislative history on this issue are too sketchy to suggest which interpretation is correct. Based on how China has applied other new laws and regulations, however, an action completed in accordance with the prior law will generally be considered legal—particularly if the application of the new law would cause material harm to the venture. For example, the PRC industrial policy as outlined in the

provisional Guide to Foreign Investment issued by MOFTEC and other agencies in June 1995 did not result in the termination or restructuring of any pre-existing joint ventures which were not in accordance with the new guidelines.

The new implementing rules should streamline the CJV approval process.

CJV investors who find themselves at variance with the implementing rules would be wise to evaluate the nature of their noncompliance. If the CJV is in compliance with the basic rules regarding capital investment and business purpose and was in compliance with the CJV Law prior to the publication of the implementing rules, relying on existing approvals appears a viable course of action. If, however, CJV partners can

amend their CJV contract and articles of association to meet the specifications of the new rules without significantly changing the operation of the business, that course should be followed.

Because of their ability to provide foreign investors with returns in excess of their proportional contributions to the venture's total registered capital. CIVs have been the vehicles of choice for build-operate-transfer (BOT) infrastructure projects. The CJV option is expected to continue to be useful in BOT projects and, as a result of the new regulations, will become a more popular option for other types of ventures as well-especially those in which foreign investors seek a preferential return. While the new rules are expected to increase the popularity of CJVs compared with EJVs, they are probably unlikely to affect greatly the total levels of foreign investment in the PRC, as they are essentially clarifications of-not changes to-existing law. In sum, the new rules cement in place the flexible characteristics of the CIV and impose no substantial additional restrictions on investors who opt for the CJV investment vehicle.

Yunnan Province, China Business

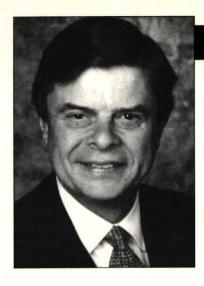
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INTERVIEW



Heading East

Ambassador James R. Sasser is off to China

After a prolonged confirmation process, former Senator James R. Sasser was confirmed as the next ambassador to China on December 14. Sasser is scheduled to leave for Beijing in mid-January to fill the post vacated last June by J. Stapleton Roy. A relative newcomer to China, Sasser shared his thoughts on US-China relations with CBR Editor Vanessa Lide Whitcomb.

After 18 years representing Tennessee in the US Senate, you're now heading out for a rather different tour in Beijing. What do you hope to accomplish during your tenure in China?

Cordial relations between China and the United States are important to both countries. You're talking about two countries that are nuclear powers and that will be probably the largest economies in the world early in the 21st century. So my primary goal will be to build on what's been done before to establish good relations and a productive bilateral relationship between the People's Republic of China and the United States. I'm also very interested in assisting in the development of American business opportunities in

China. One of the significant problems we have is a very large trade deficit with China. We are their largest trading partner, and we have our second-largest trade deficit with China. One way to deal with this is to develop American business there, not just in manufacturing, but also in services.

What role do you see the embassy playing in easing the trade deficit?

A number of things can be done. I intend to follow an open-door policy in Beijing with regard to US businesspeople who are seeking the assistance of the US government in pursuing profitable operations in China. I think the embassy can be helpful in trying to push for enforcement of the intellectual property rights memorandum signed earlier this year. We need to continue to work diligently for greater access for American products in the Chinese market. We need to express a continued desire for transparency in regulations so each side knows what the other expects of them.

Let's talk about services — what are the problems in opening up the market for US services in the PRC?

The Chinese have been more receptive to our manufacturing investments than to our service industries. There are a number of problems in this area. One, of course, is enforcement of the regulations already in effect. Second, we need to develop a means of more efficient enforcement of contract rights on behalf of both parties in China and a better appreciation of the mutuality of obligations. All of these would be of great assistance, from a legal aspect, to the service industry. And I would hope to encourage greater openness and a more competitive atmosphere for American service companies so that they can compete on an equal basis with their Chinese counterparts, with each other, and with other foreign service providers.

Your confirmation as ambassador comes nearly six months after former Ambassador Stapleton Roy's departure from Beijing. Did the empty office at the US embassy in Beijing leave us temporarily without a critical voice to the PRC leadership?

The United States is fortunate in having an excellent, competent, and professional staff in place in the embassy in Beijing. They've done a superb

job since the last ambassador left. But clearly both countries would have been better served with both of our ambassadors in their posts during the summer. If someone at the ambassador rank had been present, I think it likely that relations could have progressed along more beneficial lines sooner.

During the summer, of course, tensions over Taiwan raised questions about the "One China" policy. Do you feel the One China policy emerged stronger—or weaker—from the intense scrutiny over the summer?

I don't think the One China policy has changed. We've had six US administrations that have adhered to the policies in the three commuiqués. The Clinton Administration and the President personally have expressed this government's adherence to the One China policy. I think that the developments over the past summer perhaps have sharpened both governments' appreciation of the One China policy. But again I'll emphasize that there's been no divergence in US policy.

What about the growing reports that some within the Chinese leadership fear a renewed US "containment" effort with regard to China?

I've heard that in some circles in China there is apprehension about a new US containment policy, but I think those apprehensions are misplaced. At no level in the US government is any official espousing a policy of containment. The President on down to cabinet-rank officers are all encouraging a constructive engagement policy with the Chinese. Evidence of that includes the trips by Commerce Secretary Ron Brown and Energy Secretary Hazel O'Leary and the other trips planned by high-level Administration officials. And we continue to grant increased access of Chinese goods to the US market. If you're embarking on a policy of containment, it appears to me that one of the first things you would do is try to curtail the economic development of the country you're trying to contain by placing some kind of embargo on their goods. Just the contrary. This Administration has delinked Most Favored Nation status from human rights.

Let's turn to the question of China's MFN status. You voted several times in the past not to extend MFN to China, before deciding that the linkage between MFN and human rights in China was not the correct course. What convinced you that the linkage was no longer appropriate?

As I said in my testimony before the Senate Foreign Relations Committee, over a period of years, as I made the votes to link MFN status with human rights I became less and less convinced that this was the proper approach. The basis of my last vote [to delink MFN and human rights] was the determination in my own mind that the best way to promote respect for human rights in China was through increased contact between the two nations through trade, exchange visits, and other endeavors. It's my view that we're not going to enjoy much success in promoting respect for human rights by curtailing trade with China. When we export to China, our exports are not only goods, but our own political and cultural values.

Another hot spot in US-China relations is weapons proliferation. Do you feel Beijing is making progress in joining in the global fight against proliferation of nuclear, chemical, and conventional weapons?

M It seems to me moves more and more onto the It seems to me that as China world stage as a significant power, there is a greater appreciation on their part of the dangers of nuclear and missile proliferation. After all, China is a member of the UN Security Council, has the fastestgrowing economy in the world, and is the world's most populous nation by far. As they look more at their neighbors and at the world community, I think they've developed a greater appreciation of the wisdom of nonproliferation of both nuclear and missile technology. That's not to say we agree with everything they are doing but there has been some progress.

During the confirmation process, you mentioned protection of intellectual property rights (IPR) would be a top priority. What will be the role of the embassy in the enforcement process?

We'll make continued efforts to bring to the attention of the Chinese the language of the IPR agreement, as well as what we perceive to be less-than-enthusiastic enforcement of the agreement or continued violations. There's been some progress on protection of IPR, but there's still a great deal of work that needs to be done. Western countries, and the United States in particular, are not pleased with continued violations—in our eyes—of the IPR agreement.

Another area of concern to our member companies is the host of new tax changes expected just as you head out to China. What will the embassy be doing to lobby for US investment projects—and a positive investment climate in China?

Well, all that we can. As I said before, I intend to follow an opendoor policy with regard to US business. Without unduly being seen as trying to interfere in China's internal affairs, we will certainly be urging a tax and duty regime that would encourage American business investment in China.

As a former Senator, will you encourage members of Congress to make the trip out to China?

I think it's very important for members of Congress to visit China and see first-hand what's happening there. I've noticed that some of my colleagues would visit China and come back with a greater appreciation of the problems the Chinese face but also of the progress that's been made. There's no substitute, really, for visiting a place to get the feel of it if you have to pass legislation dealing with that country. I've always been a strong supporter of congressional travel, even though these trips have been under attack since time immemorial.

Q Do you see a Clinton trip to China in the near future?

I would hope that relations between the United States and China reach a state of cordiality that the President would come to China. I think that it's possible, though we have a ways to go yet.

Tickling Chinese Taste Buds

■ Tali Levine Kamis

TCBY joins the ranks of fast-food retailers in China oreign tourists in China looking for a taste of home and Chinese craving an alternative to ice cream have discovered a new treat—TCBY frozen yogurt. Founded in 1981, the Arkansas-based company has added China outlets to its list of over 3,000 locations worldwide and is looking to capitalize on the Chinese frenzy for American-style fast-food products. The Country's Best Yogurt (TCBY) now considers the PRC one of its most successful new markets.

In China, TCBY, which translates as tian shi bing wang or "angel ice king," is headed by Top Green International, the company's master franchisee for China, Hong Kong, and Macao. Top Green deliberately avoids the word yogurt in its Chinese name in an attempt to bill its products as sweet treats-yogurt translates as "sour milk" in Chinese-and markets TCBY products as low-sugar, low-fat desserts. Targeting children and young adults under the age of 30, the franchise uses print and television advertisements to promote frozen yogurt's smooth consistency and low-calorie, natural ingredients-including live yogurt cultures that aid in digestion.

Through its understanding of consumer tastes and use of savvy advertising, Top Green—the first and only frozen yogurt manufacturer in China to date—appears to have hit the sweet spot in China's growing appetite for frozen desserts. Top

Green opened its first franchise store in Shanghai in 1994 and now operates a total of 38 stores and kiosks in 15 Chinese cities, including Beijing, Guangzhou, Haikou, Hangzhou, Harbin, Shenzhen, Suzhou, Tianjin, and Wuhan. The company opened 21 stores last year, and hopes to open 100 new stores and kiosks in 1996 and another 300 outlets by 1997.

Top Green is a Sino-foreign joint venture among American textile businessman and China trade veteran Neil Friedman and his wife Deborah (who hold 40 percent of the company), his long-time Hong Kong business partner Sterry Chong (who holds 10 percent through the Chong family's Young Tai Holding Co.), and the Wah Gar (WAGA) Group (which holds the remaining 50 percent). WAGA is a 50-50 joint venture between the textile import-export firm, Chinatex, and Young Tai, the holding company for the Chong family textile business. Top Green pays a royalty fee to TCBY based on the quantity of TCBY proprietary flavor mix the venture purchases and uses for its products. The Top Green joint venture also pays franchise fees to TCBY for each new store opened in exchange for the use of TCBY formulas and yogurtmaking techniques, training for store managers, and technical support.

Thinking long term

In 1992, bullish on China and impressed by the successes there of Mc-

[■] Tali Levine Kamis is an assistant editor for *The CBR*. Former *CBR* Editor Pam Baldinger contributed to the preparation of this article.

Donald's and Kentucky Fried Chicken. Friedman wrote to over 100 franchises in the United States to express his interest in opening a franchise in mainland China. Among the companies that responded, TCBY replied that it was interested in expanding into Korea. In discussions with TCBY officials at the company's Little Rock headquarters, Friedman convinced TCBY that the China market had good growth potential and that he and Chong had the contacts, experience, and ability to manage TCBY's master franchise for China successfully. After 11 months of negotiations, Top Green was formed in March 1993.

One of Top Green's first steps was to hire a Shanghai Textile University professor to conduct a study of China's ice cream market. The market research involved asking Shanghai students about their ice cream preferences and conducting taste tests of ice cream products at Western franchises such as McDonald's and Baskin Robbins. The taste test results

indicated that consumers preferred foreign-brand ice cream products but found imports, which generally sold for at least five times as much as local frozen desserts, too expensive. Frozen yogurt products, which were not yet on the market, were not tested. Nevertheless, a Top Green survey in Shanghai revealed that consumers were concerned about both the taste and the nutritional content of their desserts—demonstrating that a low-fat, sweet-tasting frozen yogurt product could become a popular alternative to ice cream.

After an extensive search for a PRC manufacturing facility, Top Green entered into a joint venture in December 1993 with the Zhen Yuan Tong Foodstuff Factory, a dessert manufacturer in Zhejiang Province. Just seven months later, in June 1994, the Zhejiang Top Green

Food Products Co. Ltd. joint venture completed a \$3 million, six-story expansion of the Zhejiang facility and began producing TCBY trademark "yog.a.bars" and soft-serve mix for the China market. Top Green holds a 52 percent equity stake in Zhejiang Top Green, while the Zhen Yuan Tong Foodstuff Factory holds the remaining 48 percent. Three additional 50-50 joint ventures—Beijing

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Top Green Foodstuff Co., Ltd.; Hangzhou Top Green Foodstuff Co., Ltd.; and Shanghai Top Green Foodstuff Co., Ltd.—helped Top Green expand into Beijing, Hangzhou, and Shanghai. Though they do not manufacture TCBY products, the Beijing, Hangzhou, and Shanghai joint ventures oversee the opening of Top Green kiosks and stores, and distribute and sell TCBY products.



Top Green co-founders Friedman and Chong take a break to sample the coated yog.a.bar.

Photo courtesy of Top Green International

Maintaining quality

Although virtually all TCBY base ingredients, including milk powder, butter, yogurt cultures, and chocolate, are imported from either the United States or New Zealand, local production in China proves less expensive than importing the final product. Sourcing for other supplies can be a challenge; some items, including

whipped cream used to top banana splits and other desserts, are available only in large cities like Beijing, Guangzhou, and Shanghai and must be delivered to subfranchisees in smaller cities and more remote areas. Top Green is currently searching for suppliers with more branches or agents in China's major cities to facilitate more efficient transport of these goods. As Top Green has yet to find any cost-effective, reliable suppliers for key ingredients, it plans to continue to import raw materials used in the manufacturing process to maintain the quality of its products.

Distribution of the venture's output, a major headache for any foreign manufacturers in China, has not proven an obstacle, however. Top Green has built a solid distribution network with over 1,000 retail outlets—carts, kiosks, stalls, window booths, and stores—in eight provinces. The franchise has created an extensive network stretching from Haikou in the south to Harbin in the north and Wuhan

in the west. In addition, Top Green has expanded its reach by opening subfranchisee stores all over China. A sizable investment in freezers and freezer trucks facilitates product distribution and storage. Zhejiang Top Green owns over 20 freezer trucks and rents another 10 freezer trucks to deliver Zhejiang-made TCBY products around the country.

The joint venture exports Chinese-made TCBY products to stores in Hong Kong and other TCBY franchises in the Asia-Pacific region to help balance its foreign exchange. Last March, Top Green expanded into Hong Kong, opening six stores and three kiosks. Hong Kong products generally cost about 15 percent more than those sold in Guangzhou and other areas of Guangdong Province and considerably more than those sold in Shanghai and

other areas. The retail price for a smoothie, for example, is ¥12 (\$1.44) in Shanghai, ¥14 (\$1.68) in Guangzhou, and HK\$16 (\$2.07) in Hong Kong. The coated yog.a.bar also retails in Hong Kong at HK\$16 (\$2.07)—more than twice what it costs in Beijing and over three times more than in Shanghai.

Another contributing factor to Top Green's success has certainly been its membership in the TCBY franchise familv. Like employees of other stores in the TCBY global network, Top Green managers (all of whom are Chinese) and employees are eligible to receive training at "Yogurt University" campuses in Hangzhou in Zhejiang Province, Heyuan in Guangdong Province, and Hong Kong. At these facilities, Top Green managers teach "GMP," or the "good many practices," including sanitation training. Employees also learn about the company's "Four C's"-cleanliness, courteousness, consistency, and confidentiality of company formulas-at four-day training sessions.

Stirring up demand

Top Green recruited the international ad agency Leo Burnett Co., Inc. to plan and implement its PRC public relations campaign. Using the slogan "All the Pleasure, None of the Guilt," Top Green launched a \$4 million advertising drive in June 1994, sponsoring the World Volleyball Grand Prix in 1994 and 1995 and running television ads in Shanghai, its first target market. Top Green also created a television game show, "Love in Five Rounds," that followed the evening news in Shanghai and nearby cities. The show

Just a month after the first Top Green store opened, it had sold approximately \$50,000 worth of TCBY products.

was broadcast on Shanghai Oriental TV each Saturday night for 10 weeks in 1994. During the game show, contestants played games before an audience wearing TCBY shirts. Following the "Beat the Clock" format, five families, each with one child, completed such tasks as making the most attractive TCBY yogurt parfait. In that particular game, mothers were shown a poster of a TCBY parfait, given free rein to use a soft-serve machine and all the toppings found in a TCBY store, and instructed to create their dream parfaits. The winning family then designated its favorite charity to receive the prize money. Each program included three "yogurt information" breaks featuring company spokespeople who explained frozen vogurt's healthful attributes.

Effective advertising continues to be essential to Top Green's success, according to franchise co-founders Chong and Friedman. In 1995, the venture allocated \$1.03 million for promotional purposes. The franchise broadcast television and radio commercials to increase buyer awareness of Top Green subfranchisee stores in Guangzhou and Wuhan, which, though not owned by the joint venture, sell only TCBY products. Subfranchisees in other areas advertised on billboards, in bus stops, and in newspapers.

The ad budget has increased to \$1.55 million this year, with a current fourpronged focus on sponsoring sports and charity events; advertising via TV, radio, and print media; promoting an upscale image by opening more new, Westernstyle outlets; and handing out free and discount coupons for the grand openings of stores and kiosks. Top Green has no plans to revive its television game show, but ads on local television stations continue to stress TCBY's taste and nutritional qualities. Top Green is also exploring the option of airing ads on national television, though the cost would be three times higher than ads broadcast on local channels such as Shanghai Oriental TV.

The company's public relations efforts to date seem to have enhanced TCBY brand recognition. By September 1994, just a month after the first Top Green store opened in Shanghai, the store had sold approximately ¥420,000 (\$50,000) worth of TCBY products-making it one of the top 10 foreign franchises in the country. When production began, Zhejiang Top Green had daily production capacity of 288,000 frozen yogurt bars and 4,000 gallons of soft-serve frozen yogurt mix-all of which were packaged and labeled consistent with TCBY standardsand total annual production capacity of 16,000 tonnes of ice cream products. The joint venture's ice cream products were sold to ice cream agents and wholesalers in provinces and municipalities throughout the country. By the end of 1994, after less than five months of business, Top Green's Shanghai store had sold 10 tonnes of frozen desserts, bringing in nearly ¥1 million (\$120,000).

With the addition of top-of-the-line imported machinery at the Zhejiang facility, annual production capacity for frozen yo-



Serving a full house during the holiday season, a Top Green Beijing store brims with activity.

Photo courtesy of Top Green International

gurt products grew to 18,000 tonnes, and total production capacity will increase to more than 34,000 tonnes by 1997. Sales estimates for TCBY products now exceed ¥200 million (\$24 million) per year.

Affordable appeal

From the "rainbow bar" (a vanilla bar with five fruit-flavored coatings) to smoothies and yogurt bars, TCBY's China-made products come in nine flavors-chocolate, mint chocolate, white chocolate, coffee, lemon, lime, peach, strawberry, and vanilla. Soft-serve products account for 40 percent of the venture's total sales, while hard-pack products, including different varieties of yogurt bars and three-gallon packs, generate the remaining sales. Top Green holds a monopoly on soft-serve frozen yogurt products in China, although a few ice cream manufacturers, such as Dairy Queen, sell soft-serve ice cream products.

Top Green also places a high priority on developing new products. In March, the joint venture plans to add a frozen yogurt mini cup, a small, hard-pack product aimed at "eat on the street" consumers. Hard-pack products have thus far generally sold in supermarkets for consumption at home, while traditional softserve products, sold in cones or cups at Because Top Green
employees earn roughly
two to four times more
than the average
Chinese worker, the joint
venture generally enjoys
less employee turnover
than employers in many
other industries.

TCBY stores and kiosks, lend themselves to eating on the go.

Top Green prices its China products in the medium to high range, at a level lower than imported frozen dessert products but higher than domestic frozen desserts. For example, the coated yog.a.bar retails at ¥5 in Shanghai and ranges from ¥5.5-¥8 in Beijing, Tianjin, and other locales. Prices for domestic and foreign competitors' products range from ¥1-¥25 per serving.

Sweet success

In less than three years, Top Green has trained a corps of over 1,200 employees, half of whom work in its Zhejiang fac-

tory. On average, store managers earn \$1,740-\$2,604 per year, excluding bonuses, while other joint-venture employees who either work in the factory or provide auxiliary store services, such as machine maintenance and staff training, earn \$1,152-\$1,740 per year. The mean annual personal incomes for a businessperson and factory worker in China in 1994 were just \$581 and \$420, respectively (see The CBR, September-October 1995, p.21). Because Top Green employees earn roughly two to four times more than the average Chinese worker, the joint venture generally enjoys less employee turnover than employers in many other industries.

Last year alone, Chinese consumers ate one million tons of ice cream. China's frozen dessert market is forecast to grow 20-25 percent annually over the next 5-10 years. Given these encouraging statistics and TCBY's strong foundation, Friedman and Chong remain confident about the long-term potential of their venture. By opening more stores in Hong Kong and exporting many of its hard-pack products there, Top Green aims to explore other opportunities in the Asia region. Top Green has already formed a joint venture with Indian Dairy Specialties and will begin selling TCBY products in India in 1996. As TCBY's empire continues to expand throughout Asia, Top Green could well become its crown jewel.

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Honey Talks Yield Sweet Results

■ Spencer S. Griffith and Ronald P. Phipps

A landmark suspension agreement halts the imposition of stiff duties on Chinese honey hina has been subject to numerous dumping cases investigated by the US Department of Commerce (DOC). The number of dumping cases filed against imports from China continues to grow; over the last two years, new cases were initiated against more than 14 Chinese exports. As in previous years, DOC tended to impose high dumping margins in cases involving Chinese products, to the frustration of Chinese exporters and US importers and consumers.

In a recent dumping case concerning imports of honey from China, however, the Chinese government and DOC for the first time resolved the case by means of a suspension agreement. Containing compromises acceptable to both governments, the honey case suspension agreement, which became effective August 2, 1995, presents a possible alternative for settling future dumping disputes.

The ABCs of dumping

US antidumping laws stipulate that a US industry can file a dumping petition with DOC and the International Trade Commission (ITC) to complain that unfairly priced imports are injuring US producers of the same or a competing product. Before DOC can impose antidumping duties, it must determine that dumping has occurred, while the ITC must find that the imports have materially injured or threaten to injure producers in the US industry.

In dumping cases involving imports from non-market economies such as China, US antidumping law requires DOC to utilize an onerous and complex "factors of production" methodology to determine whether dumping is occurring (see The CBR, July-August 1991, p.34). Using this approach, DOC issues lengthy questionnaires to Chinese exporters and producers requesting data on the amount of labor, energy, and raw materials necessary to produce a given unit (such as a tonne or pound) of the merchandise under investigation. Thus, in antidumping cases involving Chinese goods, DOC derives the cost to produce a given unit of the product by multiplying the per-unit data by per-unit prices obtained from a "surrogate" market-economy country-often India-that produces the same merchandise and is at a comparable level of economic development. DOC then compares the cost with the price at which the Chinese merchandise sells in the United States. Not surprisingly, given the uncertainties inherent in this analytical process, very high dumping margins-or dutiesare imposed frequently on Chinese imports, raising the cost of importing these goods into the United States (see table).

Several factors account for the high dumping margins. First, the quantitative approach used in the surrogate-country analysis often produces speculative outcomes because of the difficulty in obtaining both appropriate and accurate surro-

[■] Spencer S. Griffith is a partner with the international law firm of Akin, Gump, Strauss, Hauer & Feld, L.L.P. Ronald P. Phipps is president of China Products North America, Inc. Both authors participated in the dumping case discussed in this article.

gate data. Second, Chinese exporters often fail to understand the importance of responding to DOC queries and thus do not cooperate sufficiently with DOC investigations; in most cases, they do not commit the legal and human resources essential to a successful defense against antidumping actions. As a result, dumping cases against Chinese imports are easier to win than those involving other countries, and US industries file dumping cases against their Chinese competitors more frequently and confidently than against exporters from other countries. The only bright spot for Chinese exporters and US importers has been that, in recent cases involving saccharin, disposable lighters, and manganese sulfate, the ITC determined that imports from China were not injuring the affected US industry.

The honey story

For approximately 40 years, US beekeepers—many of whom are part-time hobbyists—were subsidized by US Department of Agriculture (USDA) price support programs, which drew increasing criticism from members of Congress and the media. Faced with a budget crunch in the early 1990s, Congress voted in 1993 to eliminate the beekeepers' subsidies. In the fall of 1993, US beekeepers filed a Section 406 "market disruption" case against imports of honey from China, alleging that these imports were increasing rapidly and disrupting the US industry by suppressing prices in the US honey market.

Under Section 406, a little-used provision in US trade law, the ITC must determine whether the subject imports are disrupting the US industry and, if so, suggest an appropriate remedy to the executive branch. The ITC found that imports of Chinese honey were threatening the US industry-in part due to the elimination of USDA subsidies-and recommended the imposition of stiff tariffs that would effectively exclude Chinese honey from the US market. In response, a coalition of US importers and consumers of Chinese honey orchestrated a successful campaign to demonstrate that Chinese honey was critically needed to satisfy the huge gap between US production of approximately 200 million pounds and consumption of around 300 million pounds. Subsequently, in April 1994, President Clinton rejected the ITC recommendation and determined that imports of PRC honey should not be restricted

Faced with this stinging loss, US beekeepers then filed an antidumping peti-

The filing of an antidumping petition with DOC and ITC precipitated a supply crisis in the US honey industry.

tion in October 1994. Unlike Section 406, US antidumping law affords the Administration little discretion to allow broader geopolitical factors, the impact on consumers, or the larger public interest to affect the outcome of the case. DOC therefore was obliged to initiate an investigation into imports of Chinese honey despite the fact that President Clinton had only recently decided not to restrict such imports.

In the short term, however, the mere filing of an antidumping petition with DOC and ITC precipitated a supply crisis in the US honey industry. US importers balked at importing Chinese honey, fearing the huge dumping margins cited in the beekeepers' petition. As US honey processors were unable to obtain an adequate supply of honey from either domestic or third-country sources, honey prices rose steeply.

The key issue in the dumping case was the appropriate surrogate price to use to value the raw, high-moisture honey. DOC was required to find appropriate surrogate values for the raw honey produced by Chinese beekeepers, and picked India as the surrogate country because India's level of economic development is comparable to that of China. However, because India does not participate in the world honey market, DOC found it difficult to obtain accurate information on raw honey prices in India. As a result, DOC's preliminary dumping determination in March 1995 resulted in artificially high margins ranging from 127-157 percent. The high

margins would have imposed duties which would have forced Chinese exporters to sell their honey in the United States at prices double the going rate. This illogical result called into question the validity of both the premises and underlying data used in the DOC analysis, particularly the relevance of the surrogate values obtained from India.

Finding common ground

The Chinese government disagreed with the high preliminary dumping margins and initiated discussions to explore alternatives for a reasonable settlement. Since US antitrust laws prohibit foreign producers from cooperating with their US competitors to raise prices in exchange for termination of a dumping case, dumping cases are difficult to settle and can only be terminated if neither dumping nor injury is found, the petitioner withdraws the petition, or a suspension agreement is negotiated. Though the Chinese government had never before expressed concern over a specific dumping investigation, Beijing was eager to resolve the honey case. Because honey was one of the first PRC exports to the United States, the honey case carried symbolic value to Chinese trade officials.

Under a suspension agreement, foreign producers and DOC officials negotiate the terms by which the foreign exports to the United States will be subject to certain restrictions. In exchange, DOC suspends the dumping investigation and allows imports to enter without dumping duties, so long as the terms of the suspension agreement are satisfied. Additionally, US law stipulates that the suspension agreement must prevent the suppression of domestic prices, be subject to effective monitoring, and be "in the public interest." Suspension agreements, however, have rarely been negotiated because DOC officials believe that monitoring the agreements imposes a large administrative burden on DOC.

When DOC issued its preliminary determination against Chinese honey, US importers, processors, and consumers of honey showed widespread opposition to the imposition of prohibitive dumping duties. Representatives from firms that import, process, or use Chinese honey protested to DOC officials, claiming that excluding Chinese honey would cause prices to skyrocket and would jeopardize the continuity of the US honey supply. One particular fear was that major bakeries and industrial honey consumers would reformulate recipes to reduce or eliminate honey in favor of other, less expensive sweeteners such as corn syrup—demonstrating the irony that dumping cases often serve to discourage the use of the very products they purport to protect. These expressions of concern helped illustrate that a suspension agreement was legally justified because it would be in the public interest.

Also contributing to the decision to negotiate a suspension agreement was the nature of the product—the media made quick use of clever puns-and the fact that the US honey industry had for years received government subsidies. These factors helped attract considerable attention to the case. National media, including newspapers, periodicals, and TV news programs, portrayed the honey dumping case as an example of unwarranted intervention by the US government in the marketplace. President Clinton's recent decision in the Section 406 case not to restrict imports of honey from China also heightened public interest.

A final factor was the extensive participation of Chinese firms in the DOC dumping investigation. Unlike past dumping cases in which DOC faced uncooperative Chinese exporters, the honey case prompted so many Chinese honey exporters to participate in the investigation that for the first time DOC was compelled, due to limited resources, to consider only a portion of exporter responses rather than investigate each one. This extensive level of cooperation, coupled with the difficulty in obtaining appropriate surrogatecountry information for the value of raw honey corresponding to prices in the global marketplace, helped to convince DOC officials that a suspension agreement was an appropriate solution.

Making a deal

DOC and Ministry of Foreign Trade and Economic Cooperation (MOFTEC) officials, led by Zhang Yu Qing of MOFTEC's Department of Treaties and Law, held arduous and lengthy negotiations in Washington over the terms of the proposed suspension agreement. Because the United States considers China a non-market economy, DOC began formal suspension agreement negotiations with senior-level MOFTEC officials rather than with individual Chinese exporters. Several developments led to the signing of the first-ever suspension agreement

Recent US I	Dumping Cases	s Filed Against Chinese Exports				
Product	Date initiated	Dumping duties a				
Coumarin	January 1994	Jiangsu Native Produce Import & Export Corp. 15.04% Tianjin Native Produce Import & Export Corp. 50.35% All others 160.8%				
Fresh garlic	February 1994	All manufacturers, producers, and exporters 376.67%				
Pure and alloy magnesium	April 1994	(Alloy)—International Trade Commission (ITC) found no injury (Pure magnesium)—All entries 108.26%				
Disposable lighters	June 1994	Case terminated—ITC found no injury				
Furfuryl alcohol	June 1994	Sinochem Shandong Import & Export Corp. 43.54% Qingdao Chemicals & Medicines & Health Products Import & Export Co. 50.43% All others 45.27%				
Glycine	July 1994	All entries 155.89%				
Wheel inserts	October 1994	Case terminated—petition withdrawn				
Honey	October 1994	Suspension agreement				
Steel drawer slides, partial extensions with rollers	November 1994	Case terminated—petition withdrawn				
Manganese metal	December 1994	China National Electronics Import & Export Hunan Co. 10.27% China Metallurgical Import & Export Hunan Corp., Hunan Nonferrous Metals Import & Export Corp. Associated Co. 0.86% Hunan International Economic Development Corp. 3.72% Minmetals 4.36% All others 148.32%				
Manganese sulfate	December 1994	Case terminated—ITC found no injury				
Polyvinyl alcohol ^b	yl April 1995 Guangxi GITIC Import & Export Corp. 121.74% Sichuan Vinylon Works 187.56% All others 176.10%					
Bicycles ^b	April 1995	Bo An Bike Co., Ltd. 0.00% CATIC Bicycle Co., Ltd. 0.00% Giant China Co., Ltd. 0.00% Hua Chin Bicycle Co., Ltd. 18.04% Meridia Bicycle Co., Ltd. 2.39% Meridia Industry (Hong Kong) 2.39% Shenzhen Bicycle Co. (Holdings) Ltd. 5.69% Shenzhen Overlord Bicycle Co., Ltd. 3.10% Chitech Industries (Hong Kong), Ltd. and affiliated companies 5.29% Universal Cycle Corp. 2.87% All others 61.70%				

SOURCE: Akin, Gump, Strauss, Hauer & Feld, L.L.P.

^a A dumping duty, imposed on imported merchandise, represents the difference between the price of the imported merchandise sold in the United States and the costs incurred by the Chinese manufacturers to produce and ship that merchandise to the United States, as measured by reference to surrogatecountry values.

b Preliminary determination.

between the United States and China. The agreement will remain in effect, unless violated, until 2000, at which time US imports of Chinese honey may resume without restrictions with respect to price or quantity.

The negotiations

were not without sticking points, however. DOC insisted on the inclusion of strict anti-circumvention provisions designed to increase its ability to enforce the agreement. Reports of alleged circumvention of the textile quotas contained in the Multifiber Arrangement, along with other cases of reported circumvention involving garlic imports, had heightened DOC sensitivity to enforcement matters. DOC officials expressed concern to MOFTEC officials that any export limits be enforced strictly and that all tools necessary to combat possible circumvention of the export limits be made available to DOC. For example, DOC insisted that Chinese honey imported from third countries be counted against the export limits and that honey "swaps"—Chinese honey shipped to a third country to sell to a given supplier's domestic customers in exchange for shipment of that supplier's honey to the United States—be prohibited. Despite the delays caused by the difficult negotiations over anti-circumvention and other provisions, a satisfactory suspension agreement was signed just before the statutory deadline for the final DOC deter-

Under the terms of the agreement, China can ship up to 44 million pounds of honey to the United States per year. While this amount is considerably less than the peak volume of 76 million pounds exported in 1993, it is far more than the 27 million-pound ceiling proposed by the US industry in the Section 406 case. The agreement also allows the cap on Chinese honey exports to increase up to six percent annually if the US honey market grows. In addition, to prevent any future price suppression, Chinese exporters agreed to price their products in the United States above a reference price based on publicly available

The agreement will remain in effect until 2000, at which time US imports of Chinese honey may resume without restrictions.

figures for honey, by grade, imported from non-Chinese sources. DOC will update the reference price every quarter for release to Chinese exporters and US importers.

Successful conclusion of the honey case pro-

vides some hope that future dumping complaints might also be resolved via the suspension agreement route. However, as DOC generally disfavors using suspension agreements because they are difficult to monitor, it is unrealistic to expect that suspension agreements will be employed frequently.

For a suspension agreement to be negotiated successfully in future cases, a particular set of parameters similar to that found in the honey case would be required. US business interests, for instance, must express strong opposition to the imposition of dumping duties as a way of demonstrating that a suspension agreement would be in the public interest. In addition, DOC and MOFTEC officials must be willing to commit substantial time and resources to suspension agreement talks. Chinese exporters and the Chinese government must cooperate fully in the underlying dumping investigation. Moreover, both sides must agree to strict and realistic monitoring and anti-circumvention provisions. The provisions themselves would require the assistance and cooperation of US importers who, for example, might need to show sales and shipment documentation for each import entry, as well as certification that the goods were not imported in circumvention of the suspension agreement.

Lessons learned

The honey case illustrates the serious problems inherent in the DOC surrogate-country analysis, as well as the need to find reasonable and objective alternatives to that approach. In the current political environment, however, it appears unlikely that Congress is willing to amend dumping laws to modify the punitive methodology cur-

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rently applied in cases involving Chinese exports.

Despite its numerous shortcomings, the surrogate-country methodology likely will remain the primary means of determining whether a Chinese import is being dumped on the US market. Though China's evolution toward a market-based economy may one day make it easier to determine—for the purpose of antidumping investigations—the true production costs of Chinese exports, the move toward a market economy in China will spur Chinese exports further and will certainly foster new competition for US producers. These competitive pressures, in turn, likely will result in the lodging of new dumping cases against Chinese products. In light of the US government's policy to encourage not inhibit-economic reform in China, a rise in dumping cases will necessitate the development of more reasonable and objective ways to apply US trade laws. In the meantime, Chinese exporters, along with US importers and consumers, should explore the suspension agreement option to resolve dumping cases brought against PRC products in the US market.

COUNCIL ACTIVITIES

Council Welcomes Jiang Zemin

The Council, together with the America-China Society, the Asia Society, the Council on Foreign Relations, the Foreign Policy Association, and the National Committee on US-China Relations, hosted a luncheon for PRC President Jiang Zemin at the Waldorf-Astoria Hotel in New York on October 23. Jiang, who later met with President Clinton, was in New York for the 50th anniversary of the United Nations.

Following brief remarks by former secretaries of state Cyrus Vance and Henry Kissinger, Jiang delivered an hour-long speech to the more than 600 guests at the Council luncheon. By the year 2000, Jiang stated, China plans to quadruple 1980 per capita GNP levelsdespite a projected population increase of some 300 million-and hopes to increase annual foreign trade to \$400 billion. He affirmed that China's reforms have been guided by the objective of creating Chinese-style socialism, and noted that while drawing on the experience of other countries, China does not intend to "blindly copy" other development models.



Council President Robert A. Kapp greets PRC President Jiang Zemin.

Photo by ©Elsa Ruiz

Jiang mentioned that US trade restrictions on certain exports to China are one reason for China's growing trade surplus with the United States. China's early entry into the World Trade Organization under "developing country" status would help to correct the trade imbalance, he

claimed. Concluding his speech in English, the Chinese president declared that history has taught that both the United States and China reap the benefits of bilateral cooperation and that neither can escape the harm that results from confrontation.

Talking Telecom

"US telecommunications firms have the most advanced telecom technologies in the world," declared Ministry of Posts and Telecommunications (MPT) Minister Wu Jichuan on November 29. Speaking at a luncheon co-sponsored by the Council, the Department of Commerce, and the Telecommunications Industry Association, Wu discussed China's plans to add 170 million new lines by the year 2000.

Wu noted that telephone penetration in urban China has reached 30-40 percent, but rural penetration is far less. Conditions are "not yet ripe" for US companies to operate telecom services in China, he said, in part because residential lines command low fees of only \$50-\$60 per year. Steep installation fees of \$300 are necessary to provide funds for new telecom infrastructure. This was the minister's first trip to the United States.

Laws in the Works

A delegation of 14 PRC trade officials, led by the director-general of the Ministry of Foreign Trade and Economic Cooperation (MOFTEC)'s Treaties and Laws Division, Zhang Yuejiao, met with the Council's Legal Committee on December 13 at the offices of Winston & Strawn in Washington, DC. Delegation members discussed the future of the PRC legal regime governing foreign trade and investment. The Chinese officials stressed China's commitment to improving the transparency of its legal system and disseminating laws to as an broad audience as possible.

Zhang confirmed that China will soon remove the tax and tariff exemption on imports of capital equipment goods for foreign-invested enterprises (FIEs). She stated that a grandfather provision, likely based on the date of contract approval, would probably be extended for two years to projects over \$30 million, and one year for smaller projects.

One important regulation expected in 1996 is an antidumping law fully consistent with the provisions of the World Trade Organization (WTO). The new law will likely mandate two review processes for imports: one to determine whether sales are occurring at less-thanfair value and one to determine whether the imports have caused material injury to the PRC industry. Unlike US law, which splits these tasks between the Commerce Department and the International Trade Commission, the Chinese law will call for these two review processes to be administered by the same agency.

Petrochemicals Update

China's appetite for petrochemicals is hearty and growing, according to China Petrochemical Corp. (SINOPEC) President Sheng Huaren. Speaking at a luncheon for major American chemical companies, banking institutions, engineering and design firms, and other Council members on October 23, Sheng solicited the support and cooperation of US partners for increased Sino-US investment in the sector. Reaffirming the policy of favoring "large, advanced, and intensive" investment projects, Sheng outlined SINOPEC's strategy for meeting future production targets. He stated that SINOPEC remains firmly committed to upgrading old refineries and building new facilities. Such changes are necessary, claimed Sheng, to diversify product lines, increase efficiency, improve product quality, and meet domestic demand

During the period 1996-2000, domestic demand for petrochemical products will grow roughly 6-7 percent per year. By 2000, China's imports of petroleum and petrochemical products are expected to meet 20 percent of demand. While the government will continue to set petrochemical prices, foreign companies should not be deterred from investing directly in the sector, which has significant growth potential. Sheng reassured Council members that the competitiveness of US companies in China's petroleum and petrochemical fields will likely continue to grow as a result of their advanced technology and vast capital resources.

Defense News

On December 7, the Council and the World Forum of Silicon Valley co-sponsored a meeting in California with a PRC delegation visiting under the auspices of the US-China Joint Defense Conversion Commission (JDCC). US companies welcomed the chance to discuss investment opportunities in PRC defense facilities that are producing civilian goods.

Officials from the Commission for Science, Technology, and Industry for National Defense (COSTIND), the China Association for Peaceful Use of Military Industrial Technology, MOFTEC, and the Chinese Embassy participated in the meeting.

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CHINA BUSINESS

■ Olivia H. Zhao

The following tables contain recent press reports of business contracts and negotiations exclusive of those listed in previous issues. For the most part, the accuracy of these reports is not independently confirmed by *The CBR*. Contracts denominated in foreign currencies are converted into US dollars at the most recent monthly rate quoted in the International Monetary Fund's *International Financial Statistics*.

Firms whose sales and other business arrangements with China do not normally appear in press reports may have them published in *The CBR* by sending the information to the attention of the editor.

SALES AND INVESTMENT
Foreign party/Chinese party

August 1-November 11, 1995

Arrangement, value, and date reported

Accounting and Insurance

OTHER

John Hancock Mutual Life Insurance Co. (US)

Opened representative office in Shanghai. 11/95.

Winterthur Schweizerische Versicherungs Gesellschaft (Switzerland)

Opened office in Shanghai. 11/95.

Commercial Union Assurance Co., a subsidiary of Commercial Union PLC (UK)

Opened representative office in Guangzhou. 10/95.

Mitsui Marine and Fire Insurance Co. (Japan)

Opened representative office in Tianjin. 10/95.

General Accident Fire and Life Assurance Corp. PLC (UK)

Opened insurance accounting training center in Chengdu, Sichuan Province. 9/95.

Lincoln National Corp. (US)

Opened representative office in Shanghai. 9/95.

The Yasuda Mutual Life Insurance Co. (Japan)/PBOC

Opened insurance training facility in Beijing. 9/95.

The Chubb Corp. (US)

Will open representative offices in Shanghai and Shenzhen. 8/95.

American International Group Inc. (US)

Opened two operations in Guangzhou. 8/95.

The National Mutual Life Association of Australia Ltd. (Australia)

Opened representative office in Guangzhou. 8/95.

Abbreviations used throughout text: BOC: Bank of China; CAAC: Civil Aviation Administration of China; CNAIEC: China National Automotive Import-Export Corp.; CATIC: China National Aero-Technology Import-Export Corp.; CITIC: China International Trust and Investment Corp.; CITS: China International Trust and Investment Corp.; CITS: China International Trust and Investment Corp.; ETDZ: Economic and Technological Development Zone; ICBC: Industrial and Commercial Bank of China; MPT: Ministry of Posts and Telecommunications; NA: Not Available; NORINCO: China North Industries Corp.; P&T: Post and Telecommunications; PBOC: People's Bank of China; SEZ: Special Economic Zone; SINOCHEM: China Notional Chemicals Import-Export Corp.; SINOPEC: China Petrochemical Corp.; SINOTRANS: China Notional Foreign Trade Transportation Corp.; SPC: State Planning Commission; UNDP: United Nations Development Program.

Advertising and Public Relations

INVESTMENTS IN CHINA

Daiko Advertising Inc. (Japan)/Beijing Pan Pacific International Advertising Co.

Established Daiko Pacific International Advertising Ltd. joint venture in Beijing, \$4.2 million. 10/95.

Agricultural Commodities and Technology

OTHER

United Nations World Food Program

Will offer grain, transport, and storage facilities to develop agriculture in Guizhou Province. \$15.7 million. 11/95.

Asian Development Bank

Will provide loan for Hainan Agriculture and Natural Resources Development Project to promote economic growth, reduce rural poverty, and protect biodiversity and scenic resources of Jianfenling National Park. \$53 million. 9/95.

Banking and Finance

INVESTMENTS IN CHINA

Korea First Bank (S. Korea)/ICBC

Will establish Qingdao International Bank joint venture to conduct foreign exchange transactions. \$30 million. (S. Korea:50%-PRC:50%). 9/95.

CHINA'S INVESTMENTS ABROAD

ICBC

Opened representative office in London. 11/95.

OTHER

Fuji Bank (Japan)

Opened branch office in Pudong, Shanghai. 9/95.

Société Générale (France)

Opened branch in Shanghai. 9/95.

Thai Farmers Bank Public Co., Ltd. (Thailand)

Opened representative offices in Beijing, Shanghai, and Kunming, Yunnan Province, 9/95.

Chemicals, Petrochemicals, and Related Equipment

INVESTMENTS IN CHINA

Imperial Chemical Industries PLC (UK)/Shanghai Tianyuan Industry Chemicals Factory

Established joint venture in Shanghai to produce polyurethanes for use in the automotive, machinery, and building industries. \$400 million. 11/95.

The British Petroleum Co., PLC (UK)/SINOPEC

Will establish joint venture to manufacture acetic acid. 10/95.

Dystar Textilfarben GmbH, a newly established company with investment from the Bayer Group and Hoechst Aktiengesellschaft (Germany)/NA (Jiangsu)

Will establish joint venture in Wuxi to produce dyes. \$17 million. (Germany:75%-PRC:25%). 10/95.

American Plastics & Chemicals (US)/Qingyang Chemical Auxiliary Co., Ltd. (Liaoning)

Will build and operate chemical facility in northeast China. \$137 million. (US:60%-PRC:40%). 9/95.

Chusei Oil Co. (Japan), Japan-China Coals Trading Co. (Japan)/Pingdingshan Coal Mining Administration (Henan)

Will establish Henan Text High Lub' Oil Co. joint venture to produce chemicals for automotive and lubricants. \$1.3 million. (Japan:22.7%, 2.8%-PRC:74.5%). 9/95.

Exxon Chemical Eastern Inc., an affiliate of Exxon Corp. (US)/Jinzhou Petrochemical Co. (Liaoning)

Established joint venture to produce lubricants in Jinzhou. 9/95.

Novo Nordisk A/S (Denmark)

Will establish production base in Tianjin to serve the East and Southeast Asian markets. \$200 million. 9/95.

Consumer Goods

INVESTMENTS IN CHINA

Electrolux, AB (Sweden)/Changsha Zhongyi Electrical Appliances (Hunan)

Will establish joint venture in Changsha to produce high-grade appliances. \$100 million. (Sweden:60%-PRC:40%). 10/95.

Fort Howard Corp. (US)/Cimic Holdings Ltd.

Will form joint venture in Shanghai to produce sanitary tissue. (US:50%- PRC:50%). 10/95.

Whirpool Corp. (US)/Shenzhen Petrochemical (Guangdong)

Will establish joint venture to produce air conditioners in Shenzhen. \$29.5 million. (US:75%-PRC:25%). 10/95.

LG Group (S. Korea)/Tianjin Refrigerator Industrial Co.

Will build plant to produce household electrical appliances. \$99 million. (S. Korea:80%-PRC:20%). 8/95.

Winul International (Holding) Co., Ltd. (Hong Kong), Chofu Seisakusho Co. Ltd. (Japan), Nichimen Corp. (Japan), Philco International (US)/Swan Air Conditioner General Co. (Anhui)

Established WCP International (Holding) Co., Ltd. joint venture in Hefei to produce air conditioners. \$110 million. (Hong Kong:46%, Japan:41%, NA, US:NA- PRC:NA). 8/95.

OTHER

Marks & Spencer PLC (UK)

Opened representative office in Shanghai. 10/95.

Electronics and Computer Software

INVESTMENTS IN CHINA

Tektronix Inc. (US)

Will establish subsidiary in Beijing for research and development and personnel training. 11/95.

Lightnin AB, a subsidiary of General Signal Corp. (US)

Opened wholly owned facility in Caohejing High-Tech Park, Shanghai. 10/95.

IBM Corp. (US), Kaifa Technology (Hong Kong)/China Great Wall Computer Group (Guangdong) Corp.

Formed Shenzhen GKI Electronics joint venture in Shenzhen to manufacture computer components. \$13 million. (US:60%, HK:15%-PRC:25%). 10/95.

Motorola Inc. (US)/Nanjing Panda Electronics Imp. & Exp. Co. (Jiangsu)

Will establish Nanjing Power Computer Ltd. joint venture to produce multimedia computer systems. \$12 million. (US:60%-PRC:40%). 10/95.

Sanyo Electric Co., Ltd. (Japan)/Shenzhen Huaqiang Holding (Guangdong)

Will establish Shenzhen Huaqiang Sanyo Technology Design joint venture to design products for Huaqiang Sanyo Electronics. \$1 million. (Japan:70%-PRC;30%). 10/95.

Eastman Kodak Co. (US)

Established wholly owned Kodak Electronics China Co. in Pudong to produce electronic circuit chips for cameras. \$3.5 million. 9/95.

Harris Semiconductor, a unit of Harris Corp. (US)

Will build semiconductor assembly and test facility in Suzhou, Jiangsu Province. 9/95.

IBM Corp. (US)/China Great Wall Computer Group Corp. (Guangdong)

Will establish hard disk and magnetic head production project in China. \$80 million. 9/95.

Loral Corp. (US)/China National Huayun Technology Development Corp.

Formed Beijing Huayun & Loral Radar Systems joint venture to develop and produce advanced weather radar system. (US:51%-PRC:49%). 9/95.

Mitsubishi Electric Corp. (Japan), Itochu Corp. (Japan)/NA

Will establish Shandong Hualing Electronics Co. joint venture to produce thermal printer heads and contact image sensors. \$16 million. (Japan: 26%, 24%-PRC: 50%). 9/95.

Motorola Inc. (US)/Ministry of Electronics Industry

Will build computer chip facility in Tianjin. \$720 million. 9/95.

NEC Corp. (Japan)/NA (Guangdong)

Will produce Japanese-language word processors. 9/95.

OTHER

Yaskawa Electric Corp. (Japan)

Opened office in Beijing. 11/95.

Aztech Systems Ltd. (Singapore)

Opened branch in Beijing to handle sales and post-sale service for the company's multimedia products. 9/95.

Matsushita Electric Industrial Co. (Japan)

Will establish network of 3,000 home-appliance shops across China, 9/95.

Syscom Computer Engineering Co. (Taiwan)

Opened office in Beijing and announced plans to open Guangzhou office. 9/95.

Engineering and Construction

INVESTMENTS IN CHINA

Butler Manufacturing Co. (US)

Will establish wholly owned subsidiary Butler (Shanghai), Inc. to manufacture pre-engineered metal building systems and provide construction services. \$12 million. 9/95.

Case Corp. (US)/Guangxi Liugong Machinery Co. Ltd. (Guangxi)

Formed Liuzhou Case Liugong Construction Equipment Co. Ltd. joint venture to assemble and sell loader backhoes. 9/95.

Ciementeries CBR (Belgium)

Bought five percent of Guangzhou Investment Co.'s cement business. 9/95.

Hong Leong Corp. (Singapore)/Qinhuangdao Float Glass Factory (Hebei)

Will establish glass production joint venture in Qinhuangdao. \$100 million. (Singapore:56%-PRC:44%). 9/95.

Johnson Controls, Inc. (US)/Shanghai Thermostat Company

Opened joint venture in Pudong to produce temperature controls for commercial buildings. 9/95.

Thailand Cement (Dazhong) Co., Ltd. (Thailand)/Beijing Building Materials Co.

Will establish Beijing Tai Shui Ceramics Co., Ltd. joint venture to produce glazed and colored wall tiles. \$29.8 million. 8/95.

Environmental Technology and Equipment

OTHER

BankAmerica Corp. (US)

Will provide grant for water and soil conservation in Yanqing County, Beijing, \$75,000. 11/95.

Ameritech International (US)

Will provide grant to GLOBE Program to enhance environmental awareness in China. \$135,000. 10/95.

Germany

Will provide financing for forest project in the Ningxia Hui Autonomous Region. \$8.5 million. 10/95.

Food and Food Processing

INVESTMENTS IN CHINA

Burns, Philp & Co., Ltd. (Australia)/NA (Shandong)

Will establish joint-venture yeast plant in Yantai. 10/95.

The Coca-Cola Co. (US)

Established bottling plant in Shenyang, Liaoning Province. 10/95.

Daiei Inc. (Japan)

Will open supermarket in Tianjin. 9/95.

FTB Packaging (HK), majority owned by Ball Corp. (US)/NA (Zhejiang)

Will build plant to manufacture food cans in Ningbo, Zhejiang Province. 9/95.

Mead Johnson & Co., a subsidiary of Bristol-Myers Squibb Co. (US)/Light Industry Bureau of Guangzhou

Formed Mead Johnson (Guangzhou) Co. Ltd. joint venture to produce and package infant milk products. \$30 million. (US:85%-PRC:15%), 9/95.

NA (Australia)/China National Cereals, Oils and Foodstuffs Import-Export Corp.

Will set up 300,000 tpy malt factory in Zoucheng, Shangdong Province. \$60 million. 9/95.

Artal Co. (Belgium)

Will establish Vienna Food Beijing Co. to produce bread. \$3.5 million. 8/95.

Bass PLC (UK)/NA

Will establish joint-venture brewery in Siping City, Liaoning Province. \$97 million. (UK:55%-PRC:45%). 7/95.

OTHER

The International Finance Corp.

Offered financing for Weihai Weidongri Comprehensive Foodstuff Co. in Shangdong Province. \$13 million. 10/95.

Foreign Assistance

OTHER

Asian Development Bank

Will provide loan to reduce poverty in eastern Fujian Province. \$65 million. 10/95.

Machinery and Machine Tools

INVESTMENTS IN CHINA

Sauer-Sundstrand Co. (US), an affiliate of Sauer-Sundstrand GmbH (Germany)/Shanghai Hydraulics and Pneumatics Corp.

Established joint venture in Pudong to produce piston pumps. \$16.3 million. (US:50%-PRC:50%). 9/95.

Medical Equipmentand Devices

INVESTMENTS IN CHINA

Toyobo Co., Ltd. (Japan), Mitsubishi Corp. (Japan)/Shanghai SIIC Kehua Biotech Co., Ltd.

Established Shanghai Kehua Songling Diagnostic Products Co., Ltd. joint venture to manufacture agents to measure fat and cholesterol levels in human blood. \$1 million. (Japan:30%, 20%-PRC:50%). 9/95.

Metals, Minerals, and Mining

CHINA'S INVESTMENTS ABROAD

Eastern Asia Metal Investment Corp. (PRC)/Dilokong Ferrochrome Mine (S. Africa)

Will establish smelter factory and shafts in Ferrochrome mine in northern Transvaal Province. \$62 million. (PRC:60%-S. Africa:40%). 10/95.

INVESTMENTS IN CHINA

Sumitomo Metal Mining Co. (Japan), Itochu Corp. (Japan), Sharpline International (Hong Kong)/Tongling Non-Ferrous Co. (Anhui)

Will establish Jinlong Copper joint venture in Tongling to produce copper and sulphuric acid. \$200 million. (Japan:35%, Hong Kong:13%-PRC:52%). 10/95.

China Steel (Taiwan)/Shanghai Baoshan Iron and Steel Complex

Will help design an information management system to advise on quality control, production, and sales. 9/95.

Petroleum, Natural Gas, and Related Equipment

INVESTMENTS IN CHINA

Ampolex Inc. (Australia)/CNOOC

Will develop Lufen 22-1 oil field at the mouth of the Pearl River. \$200 million. 9/95.

OTHER

Fortune Oil PLC (Hong Kong)

Opened petroleum station in Shunde, Guangdong Province. 10/95.

Exxon Corp. (US)

Formed Exxon China Inc. in Beijing to support operations in China. 9/95.

World Bank

Will provide loan to transform Korla in western China into a leading oil center. \$600 million. 9/95.

Pharmaceuticals

CHINA'S IMPORTS

Biocraft Laboratories Inc. (US)

Will sell Penicillin V to Beijing Talent International Medical Health Care Products Co. 11/95.

INVESTMENTS IN CHINA

Eli Lilly & Co. (US)/Suzhou Pharmaceutical Group Co., Suzhou Pharmaceutical Plant No.3 (Jiangsu)

Established Eli Lilly Suzhou Pharmaceutical joint venture. \$28 million. (US:90%-PRC:5%, 5%). 10/95.

The Upjohn Co. (US)/Suzhou No. 4 Pharmaceutical Factory (Jiangsu)

Will establish Upjohn-Suzhou Animal-Use Tonics Co., Ltd. joint venture in Suzhou. \$15 million. 10/95.

OTHER

Servier Pharmaceutical Group (France)

Opened representative office in Beijing. 11/95.

Bristol-Myers Squibb Co. (US)

Formed new organization to align its China operations under a single management structure. 9/95.

Ports and Shipping

INVESTMENTS IN CHINA

Nedlloyd Lines B.V. (Netherlands)

Will establish subsidiary Nedlloyd Lines (China) Ltd. in Shanghai. 10/95.

Abacus (UK)/Shanghai Harbor Longwu Stevedoring Co.

Will establish joint venture to produce outdoor lighting poles and high mast lighting systems. 9/95.

OTHER

Orient Overseas Container Lines Ltd. (Hong Kong)/Sinotrans (Fujian)

Will launch feeder service between Fuzhou and Hong Kong. 11/95.

American President Lines, Ltd., a subsidiary of American President Co., Ltd. (US), Orient Overseas Container Line Ltd. (Hong Kong)

Opened route linking Qingdao, Shangdong Province to Kobe and Yokohama in Japan. 10/95.

American President Lines Ltd., a subsidiary of American President Co., Ltd. (US), Orient Overseas Container Line Ltd. (Hong Kong)

Inaugurated direct shipping links to Shanghai. 9/95.

Orient Overseas Container Line Ltd. (Hong Kong)

Began train services between Xian, Shaanxi Province and Xingang in Tianjin, and between Zhengzhou, Henan Province and Qingdao, Shandong Province. 9/95.

Power Generation Equipment

INVESTMENTS IN CHINA

The Coastal Corp. (US)/Suzhou Municipal Government-headed consortium (Jiangsu)

Established joint venture to build and operate power plant in Suzhou. \$29 million. (US:60%-PRC:40%). 10/95.

Westinghouse Electric (China) SA, a subsidiary of Westinghouse Corp. (US)/Shanghai Electric (Holding) Co.

Established joint venture to undertake power projects in Shanghai area. \$376.5 million. 10/95.

NA (Canada)/NA

Will build 300MW nuclear plant in Zhaoqing, Guangdong Province. \$200 million. 9/95.

Keppel Integrated Engineering, a subsidiary of Keppel Group (Singapore)

Will build and operate a cogeneration plant and steam facility for the Singapore Suzhou Township. \$48 million. 9/95.

Siemens AG (Germany), United Development Inc. (Israel)/China Power Investment Corp., Shandong Huaneng Power Corp., Shandong International Trust and Investment Corp., Shandong Electric Power Corp., Rizhao Economic Development Co. (Shandong)

Will build and operate power plant in Rizhao. \$542.1 million. (Germany:12.5%, Israel:12.5%-PRC:75%). 9/95.

Property Management and Development

INVESTMENTS IN CHINA

Dingjin Intec Co., Ltd. (S. Korea)/Guandong Construction Development Co., Ltd. (Liaoning)

Began building a private industrial park in Yingkou, Liaoning Province, \$75 million. (S. Korea:50%-PRC:50%). 10/95.

RTKL Associates Inc. (US)

Awarded design contract for new China Insurance Trust headquarters structure in Beijing. \$1.3 million. 10/95.

Tsabakaya (Japan)/Shanghai Manzone Real Estate Project Development Co., Shanghai Kangjian Business Center

Formed joint venture to build theme park in Shanghai. 10/95.

Yaohan Japan Corp. (Japan), Brunswick International Ltd. (Canada), a subsidiary of Brunswick Corp. (US)/Shanghai Lian Nong Co., Ltd.

Will establish Shanghai Brunswick Bowling Center Co., Ltd. joint venture. \$5 million. (Japan:25%, Canada:70%-PRC:5%) 10/95

OTHER

Club Mediterranée SA (France)

Won Singapore-based Straits Steamship Land contract to manage Spring City Lake resort in Yunnan Province. 10/95.

Telecommunications

CHINA'S IMPORTS

Siemens Nixdorf Informationssysteme AG, a subsidiary of Siemens AG (Germany)

Will sell equipment to computerize Tianjin Municipal Economic Information Center and Ministry of Personnel Information Center. \$8 million. 10/95.

Alcatel Alsthom Compagnie Générale d'Eléctricité (France)

Will provide four mobile microwave stations to Sichuan Province's Telecommunications Bureau. 9/95.

ECI Telecom Ltd. (Israel)

Awarded contract to supply information network. \$60 million. 9/95.

ECI Telecom Ltd. (Israel)

Awarded contract to provide synchronous digital hierarchy equipment to Inner Mongolia Autonomous Region Telecommunications Bureau. \$2.8 million. 9/95.

LM Ericsson (Sweden)

Will sell AXE switching lines to MPT. \$2.6 million. 9/95.

INVESTMENTS IN CHINA

Bell Canada International, a subsidiary of BCE, Inc. (Canada)/Yantai City Industrial and Trading Corp. (Shandong)

Will form joint venture in Yantai to build 50,000-subscriber mobile phone network. (Canada:80%-PRC:20%). 10/95.

The Hughes Electronics Corp., a unit of General Motors Corp. (US)

Will establish direct-to-home satellite television service in China. \$1.1 billion. 10/95.

Northern Telecom (Canada)

Established Nortel (China) Ltd. subsidiary in Beijing to manage research and development, joint-venture investments, sales, and service. 10/95.

Sony Corp. (Japan)/Beijing College of Post and Telecommunications Science and Technical Corp., Beijing Jingzhi Electronics Information Industry Ltd., Beijing Tianzhu Airport Industry Development Co.

Will establish Beijing Souhong Electronics Co., Ltd. joint venture to develop, design, produce, and supply telecommunications products. \$39.19 million. (Japan:74.5%-PRC:25.5%). 10/95.

Oy Nokia AB/Nokia Group (Finland)/No. 239 Factory, Hang Xing Machinery Co., both subsidiaries of China Aerospace Corp. (Beijing)

Will establish Beijing Nokia Hang Xing Telecommunications Systems Co., Ltd. joint venture to manufacture switching systems. \$9.98 million. (Finland:55%-PRC:23%, 23%). 9/95.

AT&T (US)/Hisense Electronic Corp. of Qingdao Posts and Telecommunications Administration (Shangdong), Qingdao Posts and Telecommunications Bureau (Shangdong), CITIC (Beijing), China Electronics Group Corp. (Beijing)

Established AT&T Qingdao Telecommunications System Ltd. joint venture to design, develop, produce, and market AT&T advanced switching system 5ESS switch. \$100 million. 8/95.

OTHER

Asian Development Bank

Will provide loan and technical assistance grant to improve China's telecommunications network. \$100.6 million. 9/95.

China-on-Line Co. (Canada)

Began providing electronic mail service in China. 9/95.

Textiles and Apparel

INVESTMENTS IN CHINA

E.I. du Pont de Nemours & Co. (US), Mitsubishi Corp. (Japan), Chemtex International Inc., a subsidiary of Mitsubishi Corp. (US), International Finance Corp./Suzhou Chemical Fibers Co. (Jiangsu)

Formed DuPont Suzhou Polyester Co., Ltd. to build and operate plant to supply polyester chips and filament yarn for the Chinese textile market. 10/95.

Asahi Chemical Industry Co., Ltd. (Japan), Itochu Corp. (Japan), Wacoal Corp. (Japan), Soko Seiren Co., Ltd. (Japan)

Will establish Hangzhou Asahikasei Textiles Co., Ltd. wholly foreign-owned enterprise in Hangzhou, Zhejiang Province to produce spandex material. \$20 million. 9/95.

Kanebo Ltd. (Japan), Toyoshima & Co. (Japan)/Yangzhou Woolen Mill Corp. (Jiangsu)

Established Yangzhou Huazhong Wool Co. joint venture to produce and market woolen textile products. \$5 million. (Japan:30%, 20%-PRC:50%). 9/95.

OTHER

Junko Shimada (Japan)

Opened outlet in Shanghai to sell upscale women's clothing. 9/95.

Transportation

CHINA'S IMPORTS

The Boeing Co. (US)

Will sell 15 Boeing 777s to Air China. \$2 billion. 9/95.

INVESTMENTS IN CHINA

FATA European Group S.p.A. (Italy), an affiliate of FKI PLC (UK)/Ministry of Machinery Industry (Henan)

Established joint venture to design and build equipment for manufacturing automobiles. 11/95.

General Motors Corp. (US)/Shanghai Automotive Industry Corp.

Will establish joint venture to manufacture mid-sized cars in Shanghai. \$1 billion. 11/95.

Airbus Industries (EU)/Guizhou Aviation Industrial Group

Will manufacture jigs and tools for maintenance of Airbus aircraft. 10/95.

Daimler-Benz Aerospace Airbus (Germany)/Shenyang Aircraft Corp.

Contracted with Shenyang Aircraft Corp. to produce 300 emergency-exit doors for Airbus A319/A320 family aircraft. 10/95.

A.O. Smith Corp. (US), NA (Malaysia)/Sichuan Enterprise Co., China First Automobile Corp. (Jilin)

Established Smith-Jinhua Auto Products Co. joint venture in Changchun to produce auto products including subframes and rear axles. \$30 million. (US:60%, Malaysia:20%-PRC:20%). 9/95.

Borg-Warner Automotive Inc. (US)/Shiyan Automotive Transmission Factory (Hubei)

Formed Huazhong Warner Transmission Co. joint venture in Shiyan to manufacture manual transmissions. \$30 million. (US:60%-PRC:40%). 9/95.

Delphi Automotive Systems, a division of General Motors Corp. (US)/Shanghai Mechanical and Electrical Holding Co. Group

Will establish joint venture in Shanghai to produce maintenance-free automotive batteries. \$30 million. 9/95.

General Motors Corp. (US)

Will build wholly funded project in Shanghai to produce automobile steering gears, chassis, and other parts. \$50 million. 9/95

Hankook Tyre Manufacturing Co. (S. Korea)/Qing Jiang Rubber Factory (Jiangsu)

Will establish plant for automobile tires in Jiangsu Province. \$142 million. 9/95.

Komatsu, Ltd. (Japan), Marubeni Corp. (Japan), Teijin Seike (Japan)/Changzhou Forestry Machinery Corp. (Jiangsu), Jiangsu Forestry Machinery Corp.

Will establish Komatsu Changlin Foundry in Changzhou to supply steelcast components for vehicle bodies and transmissions. \$21 million. (Japan:50%, 10%, 5%-PRC:21%, 14%). 9/95.

Pennvasia Corp. (Japan), a joint venture between Asahi Glass Co., Ltd. (Japan) and PPG Industries, Inc. (US) /Qinhuangdao Haiyan Safety Glass (Hebei)

Will form joint venture in Qinhuangdao to produce safety glass for automobiles. (Japan:52%-PRC:48%). 9/95.

Tenneco Inc. (US)/Beijing Automotive Industry Corp.

Will establish Beijing Monroe Shock Absorber joint venture to supply ride control equipment for passenger vehicles in China. 9/95.

Toyota Motor Corp. (Japan)/Sichuan Tourist Coach Factory (Sichuan)

Will establish joint venture in Chengdu to produce mini-buses. (Japan:51%- PRC:49%). 9/95.

Guangyang Industries Co., Ltd. (Taiwan)/Zhufeng Motorcycle Industrial Corp. (Tibet)

Will form Tibet Zhufeng Guangyang Motor Co. Ltd. joint venture to produce motorcycle motors in Lhasa. \$48 million. 8/95.

OTHER

Asian Development Bank

Will provide \$320 million loan and \$740,000 technical assistance grant for Hebei and Liaoning expressways projects. \$320.7 million. 10/95.

The International Finance Corp.

Offered financing package to the Nanjing Kumho Tyre Co. in Jiangsu Province. \$75 million. 10/95.

Singapore Airlines

Started weekly flight service between Singapore and Hangzhou, Zhejiang Province. 10/95.

Miscellaneous

OTHER

Hong Kong Trade Development Council

Will open office in Fujian Province to expand economic cooperation. 9/95.

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LAST PAGE



All Shook Up



Elvis is alive and well and living in Wanchai. Well, he might not actually live there, but he likes to roam around in a white, rhinestone-studded jumpsuit striking poses for bemused nightclub-goers. Other nights he can be found in trendy Lan Kwai Fung, the only man who'd dare wear poly-

ester in Hong Kong's haven for the beautiful people. I know. I've seen him. I've even *spoken* to him.

Which wasn't easy, because Elvis's English is a little rusty (no doubt a reflection of the slipping standards around the territory and something for LegCo to debate immediately). Actually, considering he was born in Indonesia as Marvis Kwok, his English really wasn't bad. And he certainly has his "look" down. Marvis-who now goes by Melvis-has the build of young Elvis, but his hair leans more toward the older vintage. Close up he's a little scary-looking. But how can you not like a man who carries a guitar instead of a mobile phone and gave up his job in an electronics company to "make Elvis come alive in Hong Kong?"

It turns out the territory has quite a few Elvis fans—over 200 are members of the Hong Kong chapter of the International Elvis Presley Fan Club, according to its president, Vivien Tsung. But what about China? Has it acquired Elvis appreciation yet? Miss Tsung says she doesn't think so—as far as she knows, there is no Elvis fan club on the mainland.

This means that come July 1997, China not only inherits a good chunk of the world's Rolls Royce fleet, it also acquires people who worship their own King. I thought I'd call the Preparatory Working Committee to see what they thought about this matter, but decided they wouldn't want to waste their time upsetting a few hundred people concerned with Elvis when they could get much more bang for the buck with the territory's Bill of Rights.

Really, though, China probably has little to worry about. As in most other matters, Hong Kong is very practical when it comes to admiring Elvis. Members of the fan club even get together every August to commemorate his death. "You

mean you genuinely believe he's dead?" I asked Ms. Tsung. "Of course," she said. "If my friends and I see articles that say he's alive, we laugh and think it's nonsense." This must be why Rupert Murdoch's Star TV devotes so much more air time to alien abductions than Elvis sightings here—you've

got to keep up with your market.

Which is what Christie Hefner, chairman and CEO of Playboy Enterprises, Inc., plans to do in China. In Hong Kong recently to explore opportunities in the region, she was quoted as saying *Playboy* would have to be made more "sensitive" to Asian cultures. I'm not even going to begin to contemplate what this means.

I have been puzzling over something else, though: why are people in Hong Kong so impatient in elevators, but so lethargic on escalators? For those of you who aren't familiar with this phenomenon, you can NEVER push the "door close" button too fast on an elevator in Hong Kong. Before the doors even open seems to be the most desirable option, though you also get points for the "take no prisoners" approach of shutting out the hapless soul who isn't fast enough to leap through in the micro-second the doors are allowed to stay open.

If, on the other hand, you are in a rush on an escalator and actually want to walk up it, you will soon find this a hopeless, laughable endeavor. Other commuters find it impossible to squeeze over a few

inches so you have enough room to pass, and if you ask, they will stare at you as if you were the Martian they saw recently on *The X Files*. Three-foot tall grannies have been seen hurling grown men out of the way in their sprint from the subway to the escalators, but once they step onto the stairs, it's as if they're stuck on a block of wet cement. I guess they are saving energy for those lightning elevator-button reflexes. Or maybe they stayed out too late the night before watching Melvis.

—*Pamela Baldinger*

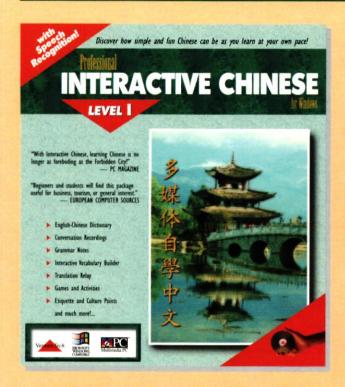


Photo courtesy of Pamela Baldinger

Pamela Baldinger is director of the Council's Hong Kong office.

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