THE MAGAZINE OF THE US-CHINA BUSINESS COUNCIL VOLUME 30 NUMBER 1 JANUARY-FEBRUARY 2003

THE CHINA BUSINESS REVIEW

WWW.CHINABUSINESSREVIEW.COM US$22 • HK$220

Bidding on the Beijing Olympics

WTO Year Two *Plus:* China Joins the Trade Wars

uide to China for Small Firms

Profile of the Chinese Stock Market

THE CHINA BUSINESS REVIEW

TABLE OF CONTENTS

JANUARY-FEBRUARY 2003

Cover by JH Design, Inc.
Cover photo by ImagineChina
Cartoons by Paula M. Miller

THE CHINA BUSINESS REVIEW

EDITOR Catherine Gelb

ASSOCIATE EDITOR Virginia A. Hulme

ASSISTANT EDITOR Paula M. Miller

BUSINESS AND MARKETING MANAGER Kattie Lee

ART DIRECTION & PRODUCTION Jon Howard/JHDesign, Inc.

PUBLICATIONS ASSISTANT Naziha Hassan

RESEARCH ASSISTANT Rebecca Karnak

The magazine of The US-China Business Council

1818 N St., NW Suite 200
Washington, DC 20036-2470
Tel: 202-429-0340 Fax: 202-833-9027
www.chinabusinessreview.com

PRINTED IN THE USA

The China Business Review welcomes articles from outside contributors. Manuscripts submitted for consideration should be sent to the editor at the address above. The US-China Business Council obtains licenses for all rights to articles and artwork published in *The CBR*. Articles or artwork published in *The CBR* may be reprinted or reproduced only with the written permission of The US-China Business Council. Articles in *The CBR* do not reflect US-China Business Council policy, unless indicated.

The China Business Review, ISSN No. 1542-5681, is published bimonthly by the US-China Business Council, 1818 N Street NW, Suite 200, Washington DC 20036-2470, USA (Tel: 202-429-0340), a nonprofit organization incorporated under the laws of the District of Columbia. Periodicals postage paid at Washington, DC, and additional mailing offices. Postmaster, please send address changes to *The China Business Review*, 1818 N Street NW, Suite 200, Washington DC 20036-2470, USA.

Annual Subscription rates: $129 US/Canada; $169 international; $89 online only. Please contact us for special institutional rates. Single copy issues: $25, airmail $35; issues over 1 yr: $15, airmail $20. DC residents add 5.75% sales tax.

Subscriptions to *The China Business Review* are not deductible as charitable contributions for Federal income tax purposes.

All commercial inquiries and renewal/purchase orders should be sent to the headquarters address above.

short takes

World Trade Organization (WTO) Posts Member Information on Website

The WTO recently posted a new section on its website that provides comprehensive information on member countries. The site **www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm**, allows visitors to obtain data regarding a country's date of membership, goods and services schedules, trade policy reviews, dispute settlement cases, and notification.

Woman Breaks Government Monopoly on Public Restroom Management

A 45-year-old woman took over management of public restrooms on Huaihou Road in Shanghai. Li Hongfang, a former bus company worker, is one of the first entrepreneurs to be part of the reform launched by the Shanghai Public Sanitation Bureau, which is encouraging individuals and professional sanitation firms to bid for toilet operation, road cleaning, and garbage collection. Li won with a bid of ¥200,000 ($24,096).

USAID Removes China From Foreign Policy-Restricted List

The US Agency for International Development (USAID) in late 2002 announced the removal of China from its list of "foreign policy-restricted countries"; the list now consists only of Cuba, Iran, Iraq, Libya, and Sudan. The removal of China from the list allows US companies to participate in USAID contracts soliciting bids for US exports to third countries even if a company's exports contain components sourced from China. Under 22CFR228.03, US companies were previously unable to bid on such contracts if their exports contained components sourced from China. Other US government restrictions on the ability of USAID to operate in China remain in effect.

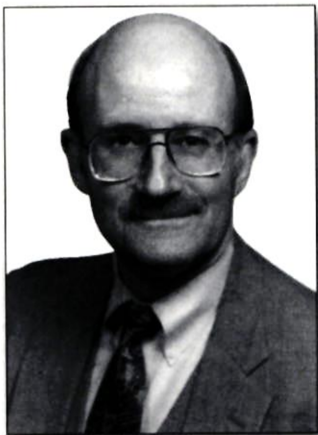
PRC Tax Revenue Up $20 Billion

According to PRC tax authorities, China's tax revenue for the first 10 months of 2002 totaled ¥1.4 trillion ($169.1 billion), up 13.4 percent over the year-earlier period. This figure is equal to 85.5 percent of the central government's tax revenue target for 2002. A spokesperson for the State Administration of Taxation (SAT) said this growth rate translates into ¥168 billion ($20.3 billion) in added revenues. The increase in tax revenues comes despite a drop in Customs collection of import tariffs that occurred after tariff reductions took effect upon China's WTO entry into the. The PRC government boosted tax revenues this year by closing tax loopholes and cracking down on smuggling to keep its widening budget deficit—set at a record ¥310 billion ($37.5 billion) for 2002—under control.

Rampant tax evasion has been a serious problem in recent years. For example, the Beijing Taxation Bureau found that 71 percent of 7,166 businesses examined failed to pay taxes on time during the first half of 2002. But there are clear signs that the government is taking tough steps to crack down on evaders. Following a major mid-year meeting aimed at increasing revenue and tax collection convened by Premier Zhu Rongji, a new system that requires companies to register at tax departments within 30 days after receiving their business licenses has been established. Without such registration, companies will be unable to open bank accounts, apply for tax reductions and exemptions, or conduct other tax-related business. SAT also attributes the rapid growth in tax revenue to an increase in imports as well as a better-than-expected economic growth rate.

CORRECTION:

There was an error in the table "Top Foreign-Invested Enterprises (FIES) by Export Value, 2001" that appeared in the November-December 2002 issue of *The CBR*. The enterprise listed as "Cannon (Zhuhai) Co., Ltd." should have read "Canon Zhuhai, Inc."



Robert A. Kapp

LETTER from the President of the US-China Business Council

Mission Impossible: Finding "The Businessperson's View of China"

I was recently asked to speak at a conference on the topic of "the businessperson's view of China." I will be the only person on the program to address this topic. Others will deal with issues of morality, national security, media coverage, ideology—the familiar panoply of concerns with which Americans frame the US dialogue on China. My job is to "speak for business."

Put yourself in my place. What would *you* do to get your hands around that topic?

1 **It's always safe to start by defining terms.** Who genuinely embodies "the businessperson's view of China"? The CEO of a multinational corporation, for whom China—no matter how important to the company's business—is but one of a million daily concerns? How about a Taiwan- or Singapore-born manager of a US wholly owned plant in some East China economic zone, working to keep a complex production operation running smoothly? Or the American general manager of a joint venture, sitting as a minority member on the venture's board of directors? Or perhaps a government affairs director in Beijing, working to improve the company's communications with Chinese government agencies? Or maybe a lawyer with a good American firm and years on the ground in China helping clients to do their homework before they sign their contracts? What about the head of a security firm responsible for digging up reliable, confidential information about the Chinese companies and individuals with whom the firm's clients are contemplating business relations? Or maybe a logistics person, struggling to get goods into China, out of customs, and on to their distributors and endusers countrywide? And what about the owner of a small US company pondering whether this, finally, is the moment when China looks promising enough for him to look for profitable opportunities in the PRC? Is there an archetypal "businessperson's view of China" to be found here?

2 **Next, we might read the latest books in English on China's economic and commercial prospects.**

These books' message is brisk: China is China, either as it has been since imperial times or else as it has been since Mao took it over in the late 1940s. American businesspeople are "innocents abroad," self-deluding dreamers at best, and cavalier fools at worst, suspending their normal tough-mindedness as they guzzle the seductive elixir of the limitless China market just as their predecessors did in nineteenth-century England and early twentieth-century America. Drunk on the "sheer numbers" of people in China, these merchants failed to notice the difficulties—poverty, barriers of language and culture, and logistics—that ultimately sent many of them home disappointed. Today, these books suggest, US businesspeople still fabricate a mythical cornucopia of commercial triumphs just over the horizon, willfully deaf and blind to the evidence that China was, is, and will always be impenetrable and immune to their misdirected efforts.

Focused on China, the writers of these books maintain—if only by failing to look elsewhere—that China is unique as a graveyard for dashed business expectations.

They do not ask how overall returns on investment in other developing economies compare with those in China.

Focused on business aspirations, they forget about other Americans' dreams—some still very much alive today—of a China with new social, political or religious norms based on US or other foreign models.

Focused on business disappointments in China, they do not mention such domestic fiascos as the collapse of the American savings and loan sector or the more recent bursting of the dotcom bubble.

And they certainly do not spend their time on stories of business success or wise business planning by American firms.

We still haven't found the key to "the businessperson's view of China." We can

3 Look at the numbers.

China is awash in numbers and statistics. Maybe the numbers will speak for themselves, and a thorough search will lead to an inescapably convincing "businessperson's view of China."

But which numbers? China's economic growth since the late 1970s, as reported by the National Bureau of Statistics or as measured by skeptical foreign economists? The ballooning foreign direct investment numbers since 1992 and especially in the past year? The figures showing China's foreign trade growth from practically nothing 25 years ago to hundreds of billions of dollars today? The statistics on the soaring number of mobile-phone and Internet users? The information on disposable income levels for China's emergent middle class? The data on exploding private ownership of dwellings and autos? There are plenty of numbers to suggest that this time around, China has achieved an economic takeoff that global business would be foolish *not* to notice and derelict *not* to factor into its own projections.

Others' quantifiers are less encouraging. No one outside of China, and few inside, who have looked at the financial system have written a persuasively rosy picture; many have seen darker visions. Though hundreds of millions of Chinese have left poverty behind in the last 20 years, millions more remain impoverished. The quantitative evidence of inequality in wealth and income between cities and rural areas, and coastal and interior regions, suggests the intractability of China's immense social, economic, and political challenges. Indices of environmental degradation can be daunting. The HIV/AIDS numbers are only now beginning to see the light of day. And doubts keep arising about the reliability of statistics in China.

So far we've looked at defining our terms, we've read the latest books, and we've pondered some of the quantitative signs that could help our hypothetical businessperson form "the businessperson's view of China." Still, we're not there. Of course, we can also

4 Take a look around.

It's hard to come away from a visit to many areas of China without the sense that the past 25 years amount to much more than a mirage.

Even as one sighs at the perpetual flow of media stories detailing investment bubbles, *guanxi*-driven real estate scams, or huge, white-elephant office blocks unrented, the movement and the economic energy in many Chinese cities and towns bombards the senses. And by the way: What *is* that huge billboard for life insurance doing above the main thoroughfare in remote Kashgar, at the westernmost edge of China in Central Asia? And how did that sign reading "Love and Protect the Precious Fiber Optic Cable" wind up alongside the ribbon of asphalt running across the endless desert of western Gansu?

On the other hand, who are those people in tattered clothes camping out under bridges on the outskirts of this or that great city and scavenging through rubbish piles? Somehow, "the businessperson's view of China" needs to encompass the vitality *and* the suffering that are part of the China he or she is seeking to "view."

Still on the trail of "the businessperson's view of China," we certainly should

5 Listen to China businesspeople who have lived and worked in other developing countries.

Businesspeople with time on the ground elsewhere in Asia, Africa, the Middle East, or Latin America usually have interesting, and often balanced, perspectives on China as a business site. Employee productivity, human resources, localization issues, systems integration capacity, physical security, bureaucratic procedures, transportation challenges, intellectual property security, corruption, functionality of telecommunications—take your pick. Ask Americans or businesspeople from other developed economies how China compares with other developing countries such as India and Brazil, which are closest to China in size, or South Korea, Taiwan, Indonesia, or Malaysia, among the major Asian developing economies. See what these veterans say.

It also makes sense to

6 Talk to Chinese friends, in-country and abroad.

What the Chinese think about their goals, their points of pride and longing, also provides insights for businesspeople about China, whether the "Chinese friends" are businesspeople, students, or employees.

We'll hear exuberance at the electrifying discovery of opportunities to succeed in the "outside world." We'll hear fears of the overwhelming technical power of the advanced industrialized economies. We'll hear bounding hope that China's continued opening to international business will bring growth and jobs, exposing the dark and protected corners of the old society and economy (and even the old politics). We'll hear grim conviction that foreigners' high-tech productivity will throw millions of simple Chinese working people out on the street. We'll hear familiar sounds about our investment dollars making money in China. We'll hear pride in how much has been achieved in such a short time; we'll hear sober assessments of how much remains to be done.

All right: we've done our due diligence. To find "the businessperson's view of China," we've defined our terms, read the books, waded through the numbers, walked around on the ground, talked to worldly-wise veteran business expatriates, talked to our Chinese friends and colleagues, and maybe even read a little history.

Can you, in my shoes, now come up with "the businessperson's view of China?"

If you can, I have a speaking engagement I'd love to have you fill.

Bidding on Beijing 2008

Paul McKenzie and Jacqueline Teoh

Beijing's hosting of the summer Olympic Games in 2008 presents China with a tremendous opportunity to cement its reputation as an emerging economic powerhouse and to showcase Beijing as a world-class capital city. Yet the task of preparing the city's infrastructure and facilities to host the games is formidable. For this reason, Beijing officials are looking to foreign companies to help supply the long list of goods and services the city needs.

The Beijing Organizing Committee for the XXIX Olympic Games (BOCOG, 第 29 届奥林匹克运动会组织委员会, *di 29 jie aolinpike yundonghui zuzhi weiyuanhui*)—established in December 2001 under the State Council—has billed the 2008 games as the

Paul McKenzie
(*pmckenzie@perkinscoie.com*) is a partner, and

Jacqueline Teoh
(*jteoh@perkinscoie.com*) an associate, in Perkins Coie LLP's Hong Kong office. Both are members of the firm's China Practice Group.

The authors would like to thank Du Xiaohong, a senior consultant in the Beijing office of Perkins Coie LLP, for her research assistance for this article.

Companies will need a bidding strategy—and financing—to win a place at the Olympics construction starting line

"Green, High-Tech, and People's" Olympics, with projects in each of these areas receiving special attention and most of the available funding. Estimates of the total price tag have ranged from $25 billion to $40 billion. At this stage, more than 140 key projects are in the pipeline, with the majority devoted to basic infrastructure, the environment, and pollution control and reduction. Fully one-third of the projects require some high technology. Numerous cultural and tourism-related projects are also in the planning stages.

Most of the sporting events will take place in Beijing, but Shanghai, Tianjin, Shenyang, Liaoning; Qingdao, Shandong; and Qinhuangdao, Hebei, will also host events. This article concentrates on developments in Beijing, as the tender procedures for work in these other locales should be similar to those in the capital.

The Olympic Action Plan

BOCOG released the official Beijing Olympic Action Plan (the Plan) on July 13, 2002, the first anniversary of the awarding of the games to Beijing. The Plan sets out a detailed blueprint for Olympics-related infrastructure and other public investments. It also lays out an ambitious timeline, dividing the period from the establishment of BOCOG until the opening of the games into preparatory, development, and pre-games operational stages (*see* box this page). This timeline will drive the scheduling, flow, and nature of foreign investment in games-related projects.

More recently, in October 2002, BOCOG released specific draft plans for environmental protection and the development and structural adjustment of the high-tech and energy sectors. These plans detail the areas of government attention within each sector. Foreign investors interested in Olympics-related opportunities, or seeking to enhance their bids for Olympic venues, should focus their investment and bid strategies on these areas.

The bidding

The principal government agencies charged with supervising the bid process for Olympics-related projects are BOCOG and the Beijing municipal development and planning authorities, namely Beijing Development Planning Commission (BDPC, 北京市发展计划委员会) *Beijingshi fazhan jihua weiyuanhui*) and the Beijing Municipal Planning Commission (BMPC, 北京市规划委员会 *Beijingshi guihua weiyuanhui*). These representatives of the PRC government have repeatedly emphasized that Olympics-related projects will be awarded through an open tender system, with bids accepted on a global and competitive basis (*see* p.13). Tenders will be drafted and contracts awarded based on requirements set out in the PRC Bidding Law and the Beijing Municipal Bidding Regulations (together the Bidding Rules); the Olympic Ownership Bidding Measures and the Beijing Municipal Ownership Bidding Regulations (together the Olympics Bidding Rules); and the PRC Government Procurement Law (*see* p.14).

It is important for companies to distinguish between projects related directly to the Olympic venues (*see* p.10) and those slated for Beijing's

Olympic Timeline

The Beijing Olympic Action Plan (The Plan) divides the period from the establishment of the Beijing Organizing Committee for the XXIX Olympic Games (BOCOG) until the opening of the games into three stages:

Preparatory stage, December 2001 to June 2003 BOCOG was established and the Plan published. The ownership tender process for key Olympic venues should also be completed and all bids for these venues awarded.

Development stage, July 2003 to June 2006 The Chinese government expects all of the Olympic venues and related facilities, in addition to key projects, such as those for environmental protection and infrastructure, to be completed.

Pre-games operational stage, July 2006 to the opening ceremony in July 2008 Competition and training venues will be tested to ensure compliance with International Olympic Committee standards, and any remaining projects will be completed.

—Paul McKenzie and Jacqueline Teoh

overhaul of infrastructure and services. The latter include a variety of basic infrastructure projects, such as the construction and operation of water- and waste-treatment facilities and power plants, which will also be of interest to companies but will follow a different timeline. (For a detailed list of projects and current invitations to bid, see *www.chinabidding.com.cn* and *www.bjinvest.gov.cn*. The other two official media outlets charged with publishing tender information for Beijing projects are the *China Daily* and the *People's Daily*.)

Officials have said that the winning bidders and new venue owners will have a great deal of autonomy in deciding how to construct and operate the venues and how to award this work.

The various Olympic venues were and are to be subject to ownership tenders in late 2002 and early 2003. BDPC officials have said that the winning bidders and new venue owners will have a great deal of autonomy in deciding how to construct and operate the venues and how to award this work. The vast majority of the work for the construction and operation of the venues should also be subject to tender. Any tenders initiated by the venue owners must conform to the Bidding Rules and, if the venue owner is a government agency, the Government Procurement Law.

Scope of the laws governing bids

The Olympics Bidding Rules make it clear that the Bidding Rules will apply to the ownership tenders for key Olympic venues. In general, the Bidding Rules apply to large construction projects that have a "public" aspect, are funded by the state (or through state-owned sources), or use foreign loans. These include basic infrastructure projects, public utility and social projects, government-funded projects at all levels, and projects using loans from the World Bank or Asian Development Bank or aid funds from international organizations or foreign governments.

Moreover, the Bidding Rules will apply to an entire project or a particular contract for project

Olympic Venues Project Tenders

First round of tenders

The Beijing Municipal People's Government and the Beijing Organizing Committee for the XXIX Olympic Games (BOCOG) in April 2002 invited bid submissions for the design and conceptual planning of the Beijing Olympic Green and Beijing Wukesong Cultural and Sports Center. The Beijing Olympic Green, where many of the key Olympic venues will be constructed, is located in the northern tip of the city's central axis. San Francisco-based Sasaki Associates, Inc., in conjunction with a local firm, Tianjin Huahui Architectural Design & Engineering Co., secured the winning bid for the Olympic Green and second prize for the Wukesong facility.

Second round of tenders

In October 2002, the Beijing Development Planning Commission (BDPC) officials issued the Pre-qualification and Call for Expressions of Interest documents for several of the major venues located within the Beijing Olympic Green, including:

- **National Stadium**, which will host the opening and closing ceremonies and track and field events.
- **National Swimming Center**, which will host swimming and diving events.
- **National Indoor Stadium and Olympic Village**, which will house athletes and coaches.
- **Convention Center**, which will be used for meetings and exhibitions.
- **Main commercial facilities**, which will include hotels, office buildings, and parking.
- **Beijing Wukesong Cultural and Sports Center**, which will host basketball events.
- **Olympic Aquatic Park**, which will host canoe and kayak events.
- **Beijing Equestrian Park (expansion and renovation)** , which will host equestrian events.

Ownership of most of these venues will be subject to a public tender to be completed in two stages: pre-qualification and tender. For the National Swimming Center, however, only operating rights will be offered.

BDPC officials have said they will release a list of qualified bidders in January 2003. The full tender for the projects should begin in late January 2003 and the winning bids awarded by mid-2003. Unofficial reports indicate consortia comprised of foreign and local parties will lead the tenders.

Next round of tenders?

Once they win the tenders for the major venues, the new owners will seek to award contracts for the construction and then the operation of the relevant venues. Still more contracts will be awarded for "Olympic overlays," or temporary facilities and construction necessary to host the games. BOCOG will be responsible for running the tender and supervising the work in relation to Olympic overlays.

—Paul McKenzie and Jacqueline Teoh

Tips on Bidding for Projects

- Monitor relevant state-designated media in the industry. Invitations to bid will likely be in Chinese only.
- Obtain tender documents from the agency inviting bids. Submit bids on time.
- Note specific requirements such as bid evaluation criteria and the corporate status of bidders, especially if bids can only be submitted by or through an entity established locally.
- Assemble co-bidders if necessary. Look for synergies on financial, technical, and operations matters. Local partners, in particular those affiliated with the Beijing municipal government authorities, will add value.
- Plan and source financing, local and otherwise.

— Paul McKenzie and Jacqueline Teoh

survey, design, construction, supervision, or procurement, above a specific monetary threshold. For example, any construction contract worth more than ¥2 million ($241,293) or procurement contract for key equipment or materials worth more than ¥1 million ($120,961) must adhere to the Bidding Rules. Because these threshold amounts are so low, most of the ancillary projects for the games, and the principal procurement contracts for them, will likely be subject to the Bidding Rules.

Companies will need to keep the requirements of both the Bidding Rules and the Government Procurement Law in mind when contracting with any government agency, public institution, or social organization in connection with the Olympics. This law requires these various government agencies to comply with a complex government procurement framework, in many cases working through a designated procurement agent. So far, Beijing and a few other cities have issued official catalogues of goods and services subject to mandatory, centralized procurement through a procurement agent. The Ministry of Finance has said it will issue a national catalogue shortly.

The Government Procurement Law places a priority on awarding contracts to providers of domestic goods and services. This emphasis is of concern for foreign investors, because it is not yet clear how "domestic" is defined or how this limitation will apply to Olympics projects. Whether the Government Procurement Law applies to a particular contract will depend on who initiates the tenders for the contract.

Public tender: Bid procedures are clear...

The Bidding Rules contemplate two methods of tender, private and public, and require that the public tender system be used unless special circumstances dictate otherwise (*see* box this page). The Beijing Municipal Bidding Regulations set out the circumstances under which a private tender would be more appropriate, subject to relevant government approval. The circumstances are vague and subject to discretionary interpretation by the authorities. They include projects that are "technically complex or have unusual requirements." The Olympic Ownership Bidding Measures expressly stipulate that the ownership tenders for Olympic construction projects be undertaken as public tenders.

Under the public tendering process (公开招标 *gongkai zhaobiao*), an invitation to bid is announced through state-designated media. The bid documents must specify all of the requirements and conditions, including the technical requirements, of the project. They must also contain the standards to be used to judge a bidder's qualifications, pricing requirements, bid evaluation standards, and the principal terms of any contracts to be executed in relation to the project. The Beijing Municipal Ownership Bidding Regulations detail the requirements of bid documents for the Olympic venue ownership tenders.

Once an entity issues an invitation to bid, bidders have 20 days to submit their bids. The Bidding Law allows bids from both single bidders or consortia. If a consortium submits a winning bid, the members of the consortium must agree to be jointly and severally liable for the project.

The sealed bids are opened just after the submission deadline for any single project. Bids are to be opened in a public forum and manner, with all bidders invited to attend.

According to the Bidding Rules, an independent evaluation committee must evaluate the bids. This committee is composed of a representative from the bid inviter and relevant experts in the field. It must contain at least five members, or any odd number of members above five. Two-thirds of the committee members must be experts qualified according to criteria stated in the law. The committee must evaluate bids on the basis of the requirements set out in the bid invitation documents, the law, and price. It must submit a written report of its evaluation and must include either a recommendation for the winning bid or suitable candidates.

The bid inviter must issue a letter of acceptance to the winning bidder and must conclude an agreement with the bidder within 30 days of issuing the letter. According to the Bidding Law, bid winners may sub-contract nonessential parts of any project tendered.

...but are not always followed

In practice, conflicts of interest have plagued proper implementation of the national Bidding Law in the past. Government authorities have allegedly published invitations to bid in a less-than-public manner, for example by using industry journals to invite bids from a restricted audience, and have supposedly awarded bids on illegitimate grounds. *China International Business*, a publication authorized by the Ministry of Foreign Trade and Economic Cooperation to publish new laws and regulations, recently reported that less than 50 percent of tenders in China are public, despite the requirements of the Bidding Law. The Beijing Municipal Bidding Regulations and Government Procurement Law seek to address these prob-

Conflicts of interest have plagued proper implementation of the national Bidding Law in the past. Government authorities have allegedly published invitations to bid in a less-than-public manner, for example by using industry journals to invite bids from a restricted audience, and have supposedly awarded bids on illegitimate grounds.

Who's Who in the Bidding Process

The Beijing Organizing Committee for the XXIX Olympic Games (BOCOG), the Beijing Development Planning Commission (BDPC), and the Beijing Municipal Planning Commission (BMPC) will oversee most of the project tenders.

BOCOG's executive board is made up of senior officials from the Beijing Municipal People's Government, the Chinese Olympic Committee, and athletes. At present, it has 15 departments, which are responsible for various aspects of developing the games, including environmental management and venue planning. BOCOG will oversee the bid process for projects related to the games, including those for projects outside of Beijing.

Under the Olympic Ownership Bidding Measures, however, the Beijing Municipal People's Government and relevant district and county governments will invite the bids for the ownership tenders for key Olympic venues, with day-to-day oversight and implementation of the bid process for most of these projects assigned to BDPC. Bid winners must obtain final approval from the State Development Planning Commission for all large projects. BMPC will manage the bid process, evaluation of design enterprises, and site planning of Olympic venues.

BDPC has appointed several tender agencies (listed in the pre-qualification documents for the ownership tenders of the Olympic venues issued in October 2002) to carry out the detailed tendering work on its behalf.

In contrast to preparations for the 2000 Olympic Games in Sydney, where the organizing committee and municipal authorities were widely rumored to be at loggerheads, the delineation of responsibilities shown thus far in Beijing should facilitate preparations for the 2008 games. As in Sydney, it appears the municipal authorities of the host city might ultimately run the show.

— *Paul McKenzie and Jacqueline Teoh*

In designing successful financing structures for any Olympic projects, investors must resolve the uneasy relationship between Olympic and post-Olympic use of the facilities.

lems by giving bidders and suppliers wider legal recourse to file a complaint or bring a suit against the bid inviter or procurer.

Funding options

Funding for the games is expected to come from a variety of sources, private and public, much of it from overseas.

Reports on how much of the overall budget will be funded by the government, and how much by the private sector, vary. Conservative estimates put private-sector financing at one-third of the budget. Funding for projects may also come through BOCOG from The Olympic Partners program and its sponsors, including Eastman Kodak Co., The Coca-Cola Co., and Schlumberger-Sema Telekom. But these funds are likely to be earmarked for "Olympic overlay" projects (temporary facilities and construction for the games), for which BOCOG is responsible.

In designing successful financing structures for any Olympic projects, investors must resolve the uneasy relationship between Olympic and post-Olympic use of the facilities. BDPC has emphasized that successful bids for Olympic venues must include creative and profitable solutions for post-Olympic use. But investors must weigh project risk against expected profits. Construction deadlines for Olympic projects are

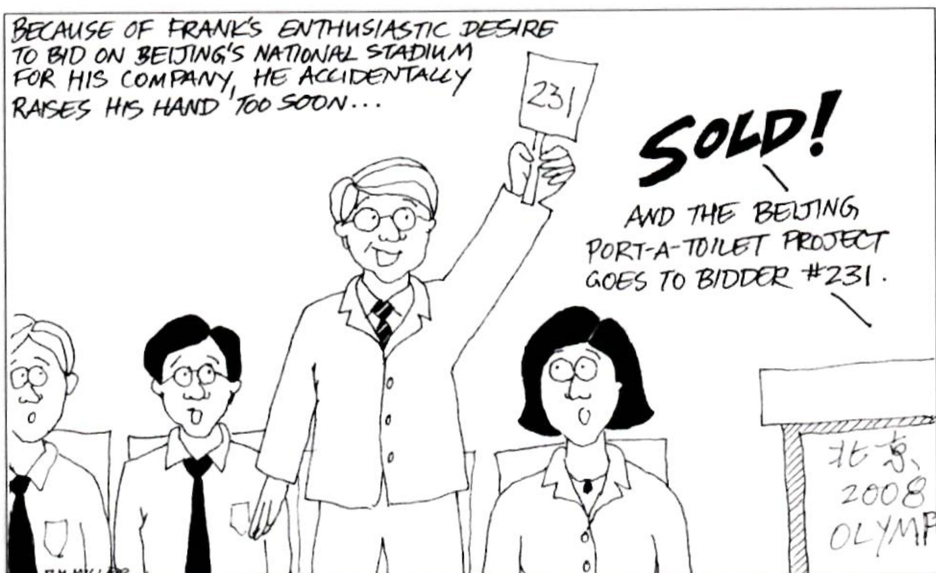
Bid-related Laws and Regulations

Law	Issuing Body	Issue Date	Effective
General			
PRC Law on the Invitation and Submission of Bids (the Bidding Law, 中华人民共和国招标投标法 *Zhonghua renmin gongheguo zhaobiao toubiao fa*)	Standing Committee of the National People's Congress (NPC)	August 30, 1999	January 1, 2000
Regulations on the Scope and Threshold Standards for Bids of Construction Projects (工程建设项目招标范围和规模标准规定 *gongcheng jianshe xiangmu zhaobiao fanwei he guimo biaozhun guiding*)	State Development Planning Commission (SDPC)	May 1, 2000	May 1, 2000
Provisional Measures on the Supervision of the Invitation and Submission of Bids for Large-Scale State Construction Projects (国家重大建设项目招标投标监督暂行办法 *guojia zhongda jianshe xiangmu zhaobiao toubiao jiandu zanxing banfa*)	SDPC	January 10, 2002	February 1, 2002
Regulations of the Beijing Municipality on the Invitation and Submission of Bids (the Beijing Municipal Bidding Regulations, 北京市招标投标条例 *Beijingshi zhaobiao toubiao tiaoli*)	Standing Committee of the Beijing Municipal People's Congress	September 6, 2002	November 1, 2002
Olympic Venues			
Measures on the Administration of the Invitation and Submission of Bids for Ownership Tenders of Olympic Construction Projects (the Olympic Ownership Bidding Measures, 奥运会建设项目法人招标投标管理办法 *aoyunhui jianshe xiangmu faren zhaobiao toubiao guanli banfa*)	Beijing Organizing Committee for the XXIX Olympic Games	July 28, 2002	July 28, 2002
Regulations of the Beijing Municipality on the Procedures on the Invitation and Submission of Bids for Ownership Tenders of Government Projects (for trial implementation) (the Beijing Municipal Ownership Bidding Regulations, 北京市政府项目法人招标投标程序规定（试行） *Beijingshi zhengfu xiangmu faren zhaobiao toubiao chengxu guiding (shixing)*)	Beijing Municipal People's Government	September 25, 2002	October 1, 2002
Government Procurement			
PRC Government Procurement Law (中华人民共和国政府采购法 *Zhonghua renmin gongheguo zhengfu caigou fa*)	NPC Standing Committee	June 29, 2002	January 1, 2003
2002 Government Procurement Plan of Central Government Entities (中央单位 2002 年政府采购计划 *zhongyang danwei 2002 nian zhengfu caigou jihua*)	Ministry of Finance	May 18, 2002	May 18, 2002
Notice on the 2003 Government Procurement Catalogue of the Beijing Municipality (2003年北京市政府采购目录的通知 *2003 nian Beijingshi zhengfu caigou mulu de tongzhi*)	Beijing Municipal Finance Bureau	July 2, 2002	July 2, 2002

SOURCE: Paul McKenzie and Jacqueline Teoh inflexible and subsequent damages for default can be burdensome. And revenue from Olympics projects is far from certain. Foreign investors may be able to extract "non-compete" clauses from the municipal authorities to ensure that similar infrastructure is not built in the city, but the value of these clauses will depend on whether and how they are enforced. The ability of an investor to shift some of these risks onto the Beijing city authorities will depend on the government's appetite for private investment.

Also of interest to investors is the level of government funding that will be available, whether by way of grants or loans or in the form of guarantees. Press reports indicate that Beijing city authorities are contemplating an issue of "Olympic" bonds and the establishment of a special "Olympic Investment Fund." BOCOG Secretary General Wang Wei gave a presentation in October 2002 in Hong Kong during which he alluded to a national sponsorship program that the Beijing municipal authorities will launch in spring 2003 to increase the funds available for

Beijing city officials insist there will be little funding from government coffers and express the hope that private capital will finance the vast majority of projects through creative structures.



Olympic venues. Despite these funding efforts, Beijing city officials insist there will be little funding from government coffers and express the hope that private capital will finance the vast majority of projects through creative structures. Analysts expect this will be reflected in the ownership tenders for Olympic venues. The Sydney Olympic Village, for example, was largely funded by a development consortium, which pre-sold housing in the village to private buyers, enabling it to raise debt financing for construction.

Race to the finish

After a successful bid, any foreign or foreign-led consortium of bidders faces the challenge of launching the project. Investment in and operation of the Olympic venues and other Olympic projects will have to conform to the general framework of rules governing foreign direct investment in China and the issues that these rules raise. Key among them are intellectual property protection; technology and equipment import and transfer; foreign exchange remittance and payment; and securing the proper industry permits and licenses to construct and operate. The ambitious plans for Beijing over the next six years present opportunities for foreign companies, but the successful companies will plan carefully, keeping these issues in mind.

In large part, the success of the games will be measured against the level of profit that investors will earn from Olympic projects. Olympic Games are not known for being commercial successes, however. And China has a relatively undeveloped framework, legal and otherwise, for supporting large-scale project financing. But spurred by the high level of interest in the games and the long-term opportunities for foreign investors in China, Beijing city authorities—and foreign bid winners—may yet buck the historical trend and turn a profit on the 2008 Beijing games. 完

WTO: Year Two Begins

Brian L. Goldstein

The one-year anniversary of China's formal accession to the World Trade Organization (WTO), on December 11, 2002, marked the deadline for implementing the next round of commitments that China made under its Protocol of Accession and Working Party Report. Most of these commitments fall under China's Schedule of Specific Commitments on Services. The schedule of tariff reductions for goods is based on the calendar year; 2003 maximum bound duty rates took effect January 1, 2003.

Services front and center

The following commitments took effect December 11, 2002, and a raft of new regulations are expected over the coming weeks to address these requirements. The commitments listed below highlight the most important changes occurring in year two and must be viewed in light of China's overall commitments.

Brian L. Goldstein
is research manager at the Council's Beijing office.

As China starts its second year as a WTO member, foreign investors will be watching to see how the country implements its year-two commitments

Trading rights

Beginning one year after entry, joint venture enterprises with minority-share foreign investment should have been granted full trading rights. Rules that say how qualified foreign-invested enterprises (FIEs) may obtain trading rights, or that state that the granting of trading rights will be automatic, have not been issued as *CBR* goes to press. It is unclear how China will interpret the expansion of trading rights, given that all FIEs currently have the right to import for their own use. Informed sources indicate that there has been considerable debate within the government about how these rights will be defined.

As part of the phase-in of trading rights, China also committed to lower the bar for domestic Chinese companies to establish trading companies. The minimum registered capital requirement for these companies falls to $360,000 in year two and will fall to $120,000 in year three.

Distribution

There is a common misconception among foreign businesses that WTO trading rights liberalization commitments encompass distribution rights. According to China's WTO commitments, trading and distribution are two separate areas (*see The CBR*, January-February 2002, p.16). For wholesale business and commission agents' business operations, minority-share foreign joint ventures may be established to distribute most products beginning in year two. Foreign-majority ownership in joint venture operations is allowed in year two for packaging, storage and warehousing, courier, road transport, and freight forwarding agency services.

The Ministry of Foreign Trade and Economic Cooperation's (MOFTEC) Notice on Relevant Issues Regarding the Experimental Establishment of Foreign-Invested Logistics Companies, which took effect on August 24, 2002, addresses investment levels in these areas. The notice includes geographic restrictions that do not appear in China's WTO commitments, however. The Ministry of Communications, on November 28, 2002, released the Notice on Advancing Liberalization Investment in Road Transport, which opens goods transport, delivery, loading and unloading, and warehousing operations to foreign majority ownership. But the notice caps foreign equity participation at 75 percent—an apparent conflict with China's WTO commitment to place no caps on foreign majority participation.

In year two, retail distribution of books, newspapers, and magazines are added to the list of products that are already permitted. PRC authorities are reportedly drafting multiple regulations to meet this commitment, including a Provisional Rule on Establishing Foreign-invested Book, Newspaper, and Periodical Distribution Enterprises and a Provisional Regulation on Management of Registration of Imported Publications. The State Economic and Trade Commission (SETC) and MOFTEC are expected to revise the 1999 Provisional Rule on Foreign-Invested Commercial Enterprises soon to address WTO commitments.

Telecommunications

Joint venture telecommunications operations in value-added services and paging services, allowed upon entry in and among three cities

(Beijing, Shanghai, and Guangzhou), will be expanded to 14 more cities (Chengdu, Sichuan; Chongqing; Dalian and Shenyang, Liaoning; Fuzhou and Xiamen, Fujian; Hangzhou and Ningbo, Zhejiang; Nanjing, Jiangsu; Qingdao, Shandong; Shenzhen, Guangdong; Taiyuan, Shanxi; Wuhan, Hubei; and Xi'an, Sha'anxi). The maximum foreign investment level will rise to 49 percent beginning in year two. But regulatory authorities seem to interpret the value-added services commitments narrowly, treating the list of valued-added services open to investment in China's WTO services schedule as exhaustive rather than indicative, thereby limiting foreign investors' access to the value-added telecommunications services market.

Foreign-majority ownership in joint venture operations is allowed in year two for packaging, storage and warehousing, courier, road transport, and freight forwarding agency services.

Joint venture basic mobile voice and data services, allowed upon entry in and among three cities (Beijing, Shanghai, Guangzhou), will be expanded to 14 more cities (Chengdu, Chongqing, Dalian, Fuzhou, Hangzhou, Nanjing, Ningbo, Qingdao, Shenyang, Shenzhen, Xiamen, Xi'an, Taiyuan, and Wuhan). The maximum foreign investment level will rise to 35 percent beginning in year two.

- **Banking**

Renminbi (RMB) business will expand from four open cities (Shanghai, Shenzhen, Tianjin, and Dalian) to five more cities (Guangzhou and Zhuhai, Guangdong; Qingdao, Nanjing, and Wuhan) in year two. The People's Bank of China (PBOC) issued a statement confirming this commitment on December 1, 2002. Foreign-invested banks are still limited to conducting RMB business for foreign companies and foreign citizens, as China only committed to allow foreign-invested banks to offer services to PRC clients beginning in year three.

Foreign banks unanimously condemned the draft Provisional Rule on Management of Renminbi Interbank Lending, released by PBOC on November 27 for public comment, because it would limit the amount of RMB that banks could borrow on the interbank market to 40 percent of current assets. If adopted, this would signal a significant reversal of liberalization, as foreign banks currently may not obtain RMB from Chinese enterprises or individuals and therefore must rely largely on the interbank loan market.

- **Insurance**

No major commitments on investment or geographic restrictions in the insurance industry are phased in during year two. But the definition of large-scale commercial risk, which joint ventures were allowed to broker upon entry, expands in year two to include any insurance risk written on enterprises that has an aggregate annual premium exceeding $72,000 and investment greater than $22 million. The mandatory 20 percent of primary risk that all reinsurance companies in China are required to reinsure with China Reinsurance Co. has fallen to 15 percent.

Licensing criteria for insurance brokers is to be eased somewhat in year two, with the minimum level of total assets falling from $500 million to $400 million.

- **Motor vehicles**

China has committed to raise the level of investment in motor vehicle manufacturing that provincial governments may approve to $60 million in year two. This level will rise to $90 million in year three, and to $150 million in year five. Previously, all investments of more than $30 million had to obtain central-government approval.

Though it had not committed to do so, China apparently has allowed foreign-majority joint ventures in vehicle manufacturing, as signaled by the November 2002 approval of Honda's 65 percent equity stake in the Guangzhou Automobile Group Ltd. If one takes China's commitment to implement the WTO Most Favored Nation principle as applicable to services as well as goods, all investments up to this level should now be permitted. Prior to this move, foreign-majority joint ventures were only possible in engine manufacturing.

The revision of China's 1994 Industrial Policy on Automobiles, which China had agreed to complete by December 2000, was expected to be released in December 2002 or January 2003. The 1994 policy set preferential import tariffs based on local content and export performance, in violation of the WTO Agreement on Trade-Related Investment Measures agreement. China is also late in finalizing the October 2002 draft Rule on Management of Automobile Financial Institutions. Foreign investment in auto financing operations was to be permitted upon entry.

For the import of complete vehicles, tariffs are set to drop in 2003 to between 38.2 and 43.0 percent for most sedans and four-wheel-drive vehicles, from the current 43.8 to 50.7 percent. The 17 percent value-added tax will remain, as will a consumption tax of 3 to 8 percent.

On December 6, 2002, MOFTEC released the 2003 Catalogue of Commercial Goods with Abolished Import Quota Management Measures that removes quotas on motorcycles and crane lorries and chassis one year ahead of China's commitments. As *The CBR* goes to press, it is assumed but not confirmed that this move trumps MOFTEC's July 2002 motorcycle and crane lorry quota announcements for 2003.

- **Legal services**

Restrictions that limited foreign law firms to opening only one representative office in China will be removed in year two, as will restrictions that limited the establishment of such offices to 19 cities. All cities are now open. The Regulation on the Implementation of the Management Regulation on Representative Offices of Foreign Law Firms, which took effect September 1, 2002, reflects these commitments, though it also introduced a three-year waiting period between the establishment of the second and any subsequent offices.

- **Chemicals**

China committed to enact and implement, within one year after its entry, a new law and relevant regulations regarding the assessment and control of chemicals to protect the environment. China moved to meet this commitment by issuing the Regulations on the Administration of Dangerous Chemicals (State Council Order 344), which took effect March 15, 2002. SETC issued three more rules that took effect November 15, 2002: the Rule on Management of Production of Packaging Materials and Containers for Dangerous Chemicals, the Rule on Management of Dangerous Chemical Operating Permits, and the Rule on Management of Registration of Dangerous Chemicals.

- **Other services and standards measures**

Beginning in year two, foreign majority ownership in joint venture operations will be permitted in maintenance and repair services as well as rental and leasing services.

In the area of standards, one year after entry, all standards bodies and agencies are authorized to inspect both imported and domestic products, something China instituted with the establishment of the China National Regulatory Commission for Certification and Accreditation (CNCA) on August 29, 2001 and codified with introduction of the China Compulsory Certification system in May 2002.

Goods tariffs and quotas

China reduced import tariffs on January 1, 2003 and expanded quotas and tariff-rate quotas or removed them entirely. China committed to institute the following on January 1, 2003:

- **Import duties**

According to China's WTO commitments, import duties were to fall another 1.1 percent on average on January 1, 2003 across more than 7,000 tariff classifications to an average of 11.1 percent. WTO-mandated tariff reductions were completed for more than 4,800 tariff classifications at the beginning of 2003, reaching an average final bound duty rate of 8.8 percent. For certain products, China has lowered tariffs ahead of the WTO schedule—according to official PRC statements tariffs had already fallen from 15.3 percent to 12 percent with the introduction of 2002 tariff levels.

China's WTO commitments allow higher tariff levels on agricultural products than on other

Table 1
2003 Import Quotas

Product	Quota amount	Reserved Share for State-Trading Enterprises (STEs)
Automobiles	$9.125 billion	None
Tires	1,230,000 units	None
Natural Rubber	850,000 metric tons	None
Processed Oil	25.3 million tons	79%
Crude Oil	none	Non-STEs are limited to importing 9.52 million tons

Table 2
2003 Tariff-Rate Quotas

Product	TRQ In-Quota amount (metric tons)	Reserved Share for State Trading Enterprises (percent)
Fertilizers		
Diammonium phosphate (DAP)	5,953,500	80
Urea	1,800,000	90
NPK	2,976,750	80
Agriculture		
Wheat	9,052,000	90
Corn	6,525,000	64
Rice (short,medium)	2,327,500	50
Rice (long)	2,327,500	50
Sugar	1,852,200	70
Cotton	856,250	33
Soybean Oil	2,818,000	26
Palm Oil	2,600,000	26
Rapeseed Oil	1,018,600	26
Wool	275,750	None, but 34.5 percent is reserved for processing trade under PRC rules
Wool Tops	76,250	None, but 44.6 percent is reserved for processing trade under PRC rules

SOURCE: US-China Business Council

goods. For 2003, China committed to an average agricultural tariff level of 16.6 percent, while for all other goods the average level is 10.3 percent. By the end of China's tariff reduction phase-in, agricultural tariff levels will drop to an average of 15.0 percent, while for all other goods the average level will be 8.9 percent. The average level for all goods will fall to 9.8 percent by 2010, but China will likely reduce tariffs on certain products to rates that are lower than those listed in China's WTO commitments.

Quotas

Of the categories subject to import licensing and import quotas in 2002, all licensing and quotas for wristwatches and cameras were removed on January 1, 2003. A few minor motorcycle and vehicle engine categories also saw quota and licensing requirements removed at the start of 2003, but the bulk of automobile quota restrictions will not be lifted until 2004 and 2005.

PRC regulators announced 2003 import quotas on autos, tires, rubber, and crude and processed oil that meet or exceed minimum WTO commitments to expand the quota amount by 15 percent until the commitment phase-out date (*see* Table 1).

Despite the commitment to remove all import licensing restrictions for products not

China's Emerging WTO Experts

Gao Yongfu, associate president of the Shanghai World Trade Organization (WTO) Affairs Consultation Center, traveled to the United States with four of his colleagues in late 2002 on a fact-finding mission: Why, they wanted to know, are China's companies so often the targets of US antidumping investigations—among other trade disputes—and how can Chinese firms minimize future encounters?

Gao, an international trade law expert with 20 years of experience as a professor and scholar, is one of the leaders of the two-year-old WTO center in Shanghai. The center is charged with advising the PRC central and Shanghai governments and Chinese businesses on how to incorporate WTO norms into their daily activities. He explained that his findings from his US visit would aid the center's progress toward one of its main goals for 2002—the development of a system to assist PRC companies that are involved in trade disputes.

This trade remedy assistance system is only one of a series of tasks that the center has set for itself. It also provides consulting assistance to government agencies responsible for writing, or rewriting, PRC laws and regulations to meet China's WTO commitments. "For example," Gao explains, "before government officials make decisions or new regulations concerning WTO affairs, they will consult the center."

Other ambitious priorities include reviewing local governments' "action plans" on WTO implementation; providing a home for an "international research network" on WTO issues; acting as a contact point for complaints and disputes related to WTO implementation in Shanghai; and evaluating the impact of WTO entry on China's economic growth.

The Shanghai government founded the center as a nongovernmental organization in 2000, in recognition of China's imminent WTO entry, and still provides much of its funding. International trade economist Wang Xingkui is president and a vice chair of the board of trustees, which is made up of PRC government officials and sets broad policy goals. The center is guided by an advisory committee of Chinese and foreign experts from the WTO and United Nations, as well as well-known academics (including Columbia University economist Jagdish Bhagwati). A staff of 40, in departments that encompass foreign affairs, information, consulting, training, and public relations, carries out the center's daily operations.

In 2003, Gao said that the center planned to be more active in WTO affairs on the whole. He expected that the center would engage in cooperative research projects with the Ministry of Foreign Trade and Economic Cooperation and the State Council Legislative Affairs Office—and would probably send WTO center staff to these agencies for training and research projects. The center will also step up efforts to serve Chinese firms and businesspeople, to help them compete both in China and overseas and "to teach them not just the rules, but the practice," as Gao puts it.

A WTO education

Gao sketched out his trip in a recent interview—his colleagues spent about three months in Washington, and he spent about a month, meeting numerous US government officials from the US Trade Representative's Office, the Department of Commerce (DOC), and the International Trade Commission (ITC). "We talked about the trade issues between [our countries] and we learned more detail about the antidumping acts in the United States as well as the practice of the US government, especially the practices of the ITC and DOC." His conclusion? "I think on the antidumping issue the very big problem is the nonmarket economy designation. We discussed this with DOC. How should they evaluate the reform of China?" The United States, like other WTO members, considers China a non-market economy (NME) and thus uses third-country price data to evaluate whether Chinese goods are being sold in the United States at prices below "normal"—in China.

"I told them, during the past 20 years, the economic structure [in China], including the price system, has changed a lot. Chinese exporters want to export commodities to the United States, but how are they to avoid being the victim of US antidumping cases? There is no standard for them to judge at what price they can sell." The typical Chinese exporter has no idea what his Indian counterpart charges.

He explained that his goal and that of his colleagues was to be able to explain to Chinese exporters just how difficult it would be for them to avoid defending themselves against US antidumping cases.

When asked his opinion of China's progress in implementing WTO commitments to date, Gao commended his government's widespread overhaul of its legal system. Yet he noted that there were still some challenges in store for the government and the economy. "At least three sectors are very tough for China—one is the agricultural sector, and another is service trade, especially banking services. And the third is intellectual property protection. Not only the laws but the practice—how to enforce the laws. In my opinion, these three sectors are very tough for China. Of course," he cautioned, "China listed in China's WTO commitments, importers in China still face unexpected import licensing restrictions as China maintains separate catalogues of products that must register or otherwise obtain import permits. China maintains that these restrictions remain for "statistical purposes" and do not impede imports.

- **Tariff-rate quotas (TRQs)**

China agreed in its WTO commitments to expand the quota amount for the import of products managed by a TRQ system (*see* Table 2). Though China has not committed to import the entire quota amount, the expansion of quota size is meant to allow for greater market access for products with a market demand in China.

The US-China Business Council's President, Robert A. Kapp, has noted that China's performance on these and other year-two commitments will be a critical indicator of the nation's overall commitment to the WTO system. 完

The Shanghai WTO Affairs Consultation Center aims to be a resource for government and business alike

has a transitional period] to implement WTO laws and commitments completely. In my opinion, foreigners, including government officials, should understand this transitional period. There is a Chinese saying, 'You cannot get fat after one meal.' It is a long process."

Training the vanguard

Perhaps the most impressive aspect of the center's work to date has been its ambitious, and rigorous, "50/100" training program of Chinese government officials and professionals. The center has sent two groups of trainees to the United States and will send a third in early 2003. Gao's trip coincided with the visit of 17 Shanghai center trainees that were living in Washington for four months as part of the three-year-long program to learn about the practical concerns of US companies and government officials vis-à-vis China's WTO membership.

The students participated in US-China Business Council-organized meetings on WTO-related issues with Council member companies. Participants also met with US government officials and industry leaders to discuss WTO implementation-related issues. These meetings provided the Shanghai trainees with insights on how trade disputes are handled as well as how US companies manage their international trade interests in Washington.

One such trainee, Yang Chao of the Foreign Economic Relations Commission of Shanghai's Zhabei district, explained in an interview that he learned valuable information from every US company, organization, and government agency he visited. During one of his first sessions, he noted, he learned the definition of "lobbyist" and "lobbying." In another session, he observed how strong industry associations are in the United States and commented that although the PRC government is much stronger than China's companies and associations, China is slowly transforming itself. He predicted that companies would eventuall, gain strength and the government's role in business would weaken.

Yang said his goals for the internship were influenced by advice from both Wang Xingkui and US-China Business Council President Robert A. Kapp. According to Yang, "Before our group departed China, Wang told our training group that we couldn't become experts through training alone, but that we must practice. So one of my goals became figuring out how to put my [book] knowledge to practice in my future work. I wanted to go to the United States to obtain basic knowledge and then use what I learned fully in China."

Kapp similarly recommended that the trainees, rather than try to become experts in such a short period of time, "focus on how Americans conduct and manage business, in addition to studying WTO issues." Yang explained, "Another one of my goals then became to try to learn different aspects of business in the United States—not to just focus on WTO-related aspects but to focus on how Americans manage business and make decisions as well."

One of the most important lessons Yang learned, he said, was how important it is for China and the United States to develop good exchanges and relationships. "Before I came to the United States, I thought all Americans knew how to do business in China—after all, there are so many ways to learn how to conduct business with China—through consultants, the Internet, etc.

"But when I arrived in the United States, I began to realize that many Americans have no idea how to invest in China. For example, I took part in a high-technology conference with American companies, Chinese companies, and government agencies all in attendance. I was surprised that a lot of these US companies didn't know how to invest in China, they didn't know the procedures or requirements. These people were very eager to invest, though, and wanted to find Chinese partners. I think this goes to show how important training programs, consultants, and business councils like the US-China Business Council can be. There is a great need for bridges to help US-China business."

Gao echoed Yang's observations. This latest trip was his third visit to Washington, and he said, "More and more people in the United States know China better—the officials, the ordinary people, the businesspeople are all interested in China." But he said there was still an imbalance; generally Chinese know much more about the United States than Americans do about China. He recommended that the US government make more of an effort to train Chinese experts in the United States, so that "the two countries can get to know each other better."

—Catherine Gelb and Paula M. Miller

Catherine Gelb is editor of *The CBR*; Paula M. Miller is assistant editor of *The CBR*.

China Joins the Trade Wars

Patrick M. Norton and Kermit Almstedt

In its first year as a World Trade Organization (WTO) member, China became an active combatant in the international trade wars. In 2002, Chinese exports were once again the subject of more antidumping investigations around the world than those of any other country. China was not content, however, merely to defend itself against the charges of others but promptly began exercising its own WTO rights. China first expanded its pre-WTO program of antidumping investigations of imports into China. Then, in March, it responded to US safeguard measures on steel imports with a wide-ranging steel safeguard investigation of its own. In a historic first, China also formally challenged the US measures before a WTO dispute panel in Geneva. As this article went to press, other WTO members were threatening to take China's own recent trade decisions to Geneva.

Patrick M. Norton
is the managing partner of O'Melveny & Myers's Beijing office.

Kermit Almstedt
is a partner in O'Melveny & Myers's Washington, DC, office and the head of the firm's International Trade Group.

China is fighting dumping charges around the world, aggressively investigating imports at home, and challenging US safeguard measures in Geneva

In short, China has entered the highly politicized world of international trade.

Antidumping investigations: China on the defensive...

The Ministry of Foreign Trade and Economic Cooperation (MOFTEC) has estimated that Chinese exports have been the subject of nearly 400 antidumping investigations in recent years. China is an obvious target of these investigations, which examine whether imports are being "dumped"—that is, sold at prices lower than "normal prices" in the producer's home market. China's low labor costs permit it to export labor-intensive products at prices so low that competitors in importing countries charge they cannot be "normal." Even China's low-cost competitors are threatened by Chinese exports. As a result, Chinese imports have been the subject of antidumping investigations not only in the United States and the European Union, but in countries such as India and Egypt as well.

The WTO Antidumping Agreement also authorizes special "surrogate country" pricing procedures for "non-market economy" countries. Despite the changes that have occurred in its economy in recent years, China agreed as a condition of its WTO entry that other WTO members may continue to treat it as a non-market economy for up to 15 years. The surrogate country procedures exclude the use of actual market prices in China as the "normal value" benchmark against which export prices are compared. Instead, the investigating government may calculate what the price of Chinese goods "should be" based on manufacturing costs in a "surrogate" market economy country—in China's case, almost always India. These calculations are at best arbitrary and at worst grossly unfair to Chinese exporters. Industries in countries that use the surrogate country procedures—notably, the United States—have an added incentive to file petitions against Chinese imports because these arbitrary calculations work to their advantage.

By and large, Chinese exporters have not fared well in foreign antidumping cases. Some of the adverse findings may, of course, be justified; Chinese exporters, like exporters elsewhere, may at times "dump" their products. Some findings may also be the product of the arbitrary surrogate country valuations. Often, however, Chinese exporters have lost simply because they did not defend investigations that they considered unfamiliar, expensive, and perhaps stacked against them.

This passive posture may well have ended. Since entering the WTO, the Chinese government has strongly encouraged Chinese exporters to defend trade remedy investigations more aggressively. Government leaders have made public speeches to this effect, and government departments reportedly have offered Chinese exporters advice, or even funding, to defend specific cases. Chinese exporters also received encouragement this past spring from unprecedented victories in several aggressively defended US antidumping cases and from victory in a Canadian case later in the year. As a result of these successes, Chinese companies are likely to defend their interests in trade cases more actively than they have in the past.

...and on the offensive

Under the 1994 Foreign Trade Law and 1997 Antidumping Regulations, China initiated 12 antidumping investigations of foreign imports in the four years before WTO entry. Eight of the 12 cases involved chemical products or synthetic fabrics derived from chemicals; two involved steel products (see *The CBR*, May-June 2000, p.30). When China joined the WTO in December 2001, five of the 12 investigations were still pending. The lysine case was dismissed in September 2002 for lack of injury to the domestic industry.

In early 2002, China issued new, more detailed Antidumping Regulations that follow WTO standards quite closely. (China also issued new regulations for antisubsidy and safeguard investigations.) China then entered the antidumping business with a vengeance—literally, with many government and industry spokespersons stating unambiguously that China intended to get even for all the antidumping investigations of Chinese products by other countries. China had launched six new investigations by March 31 and a total of nine by September. One of the nine new investigations involved important steel imports (steel plate); another, seemingly minor art paper imports. Most again involved various chemical imports. A few investigations involved US or EU exports, but most focused on products from South Korea, Japan, Taiwan (a separate jurisdiction for WTO purposes), or elsewhere in Asia.

A large majority of China's 21 antidumping investigations have thus involved either chemical or steel products. In most instances, these are intermediate products supplied to other manufacturers. Most of the Chinese petitioners in these investigations have been state-owned, heavy-industry producers.

As of December 1, 2002, China had imposed final antidumping duties in six of its 21 antidumping investigations. Two investigations had been dismissed and, of the 13 still pending, provisional duties had been imposed in four.

In May 2002, China also initiated a broad "safeguard" investigation of steel imports in the wake of US and EU measures against steel. In late November China applied safeguard tariff quotas to five categories of steel imports (*see* p.26).

China's trade remedy investigations and WTO rules

China has now initiated more than 20 antidumping cases and one major safeguard investigation. (China has conducted no antisubsidy investigations to date.) One must be cautious not to draw firm conclusions from these cases because most of the antidumping cases remain pending, and many decisions pre-dated China's WTO entry and thus technically were not subject to WTO standards. Nevertheless, China has consistently maintained that it has been following WTO standards from the outset, and the investigations to date provide a considerable body of material from which to judge its performance.

The economics of trade cases in China

Most trade remedy cases in China follow a consistent pattern. Typically, the domestic Chinese industry that requests an antidumping (or safeguard) investigation of foreign imports is in a state of transition. Several large, state-owned producers have recently introduced modern technology and are manufacturing products that compete with a broad range of imports. Scores of much smaller producers are scattered around China. These smaller producers lack economies of scale and use outdated technology. Their products are generally of high cost and low quality and cannot compete with imports; indeed, many cannot be sold in China. Central government efforts to close down these inefficient, small producers are frustrated by local political pressures to keep the plants open and people employed.

The successful large, domestic producers are accustomed to various forms of government protection from foreign competition and believe that China's implementation of its WTO obligations spells their demise. They are also aware that they cannot yet produce many of the high-technology or high value-added products that customers in China require, but they would like shelter from competition to develop their capacity to compete in this higher, and more profitable, end of the market. So the large domestic producers petition for an antidumping investigation alleging that the domestic industry is being "seriously injured" by underpriced imports. In fact, Chinese government and internal Chinese industry reports, as well as the companies' own financial statements, often show that these large producers are quite successful. The large producers, however, mask their own successes with aggregate industry data that include the numerous inefficient, small producers and typically show low average profits, revenues, and capacity utilization, giving at least a veneer of credibility to the injury claims.

The Chinese endusers of the products tend to fall into three groups. Large state-owned enterprises generally buy domestically manufactured products because their own products are sold in China and do not need to conform to exceptionally high technical or quality specifications. Smaller, privately owned Chinese exporters often do require high-quality or specialized inputs—for example, materials certified as satisfying particular foreign industry standards—to export their products to foreign markets. Often, only imports satisfy their requirements. Many foreign-owned enterprises buy imports for the same reason or because they are supplied by the foreign-invested firms' own offshore affiliates.

The battle lines then, are usually quite clear. On the one side are the large, state-owned domestic producers petitioning for redress. Their large, state-owned customers will buy the domestic products in any event and are, accordingly, indifferent to the results of the investigation. On the other side are foreign importers and the smaller, privately owned Chinese exporters and foreign-owned enterprises that require imported products. They will bear the brunt of any additional antidumping duties or safeguard measures. In China, antidumping and safeguard cases are not contests of political equals.

> **The battle lines then, are usually quite clear. On the one side are the large, state-owned domestic producers petitioning for redress. On the other side are foreign importers and the smaller, privately owned Chinese exporters and foreign-owned enterprises that require imported products.**

Domestic industry generally wins *but* ...

In this environment, it is not surprising that most Chinese investigations have resulted in the application of antidumping or safeguard measures. Some of these measures may, in fact, be justified under WTO standards. In cases in which the authors have been involved, however, the measures have often appeared unjustified by the evidence. A WTO dispute panel would almost certainly reject at least some of these decisions as either unsubstantiated or contrary to the evidence in the record.

Exceptions of one sort or another have, however, mitigated the potential harshness of the results. Chinese authorities, for example, generally rebate, or do not impose, antidumping or safeguard duties on imports that are reprocessed into Chinese exports. This policy is consistent with the exemption of these products from normal import duties. It is also the right legal result under the WTO Antidumping Agreement, which authorizes antidumping duties only on goods that "enter the commerce" of an importing member (generally interpreted as excluding goods that go into export processing). More important for the Chinese authorities, perhaps, is that this approach does not injure the domestic industry, which cannot, in any event, manufacture many of the high-tech or high-quality products required for export processing. The policy allows Chinese exporters to continue to obtain their import supplies without paying additional duties and mollifies the complaints of the countries supplying the imports. Chinese authorities have also, on occasion, been willing to exempt specific products sold into the Chinese market itself when it was clear that the domestic industry could not supply the product.

These results would often not stand up to scrutiny by a WTO dispute panel. As a result, some foreign importers and some foreign endusers wind up paying duties that strict application of WTO rules would not require them to pay. Nevertheless, this approach effects a rough,

The International Trade Battlefield

In recent decades, nations have opened their domestic markets to foreign imports in the expectation that an expansion of trade will benefit their economies. But trade liberalization has proven to be a double-edged sword. Market openings have exposed less-competitive domestic industries to unprecedented competition from foreign imports. Factories, workers, and the communities dependent on them exert enormous pressure on their governments to protect them from the consequences of market opening. China's low-priced imports are a major economic threat and, accordingly, a prime target for protective measures.

China's own recent World Trade Organization (WTO) entry is based on a similar economic calculus and confronts Chinese industry and China's political leaders with similar problems. China's leaders are as responsive as those of any other country to the resulting political pressures.

Domestic industries threatened with plant closures and massive layoffs are often tempted to demand that their governments initiate trade remedy investigations whether or not the facts conform to WTO legal criteria. The resulting investigations are often intensely political, and the stakes are high. Rejection of a domestic industry's request for protection may satisfy foreign trade partners but expose that industry to collapse. Such a collapse may jeopardize government leaders' own political positions. Grant of a request may protect the domestic industry but infuriate foreign exporters and their governments. It may also entangle the government in acrimonious legal disputes before a WTO panel in Geneva, with potential diplomatic fallout in other areas. China is now fighting these battles on both fronts.

—Patrick M. Norton and Kermit Almstedt

practical compromise in the marketplace. That may well be the intended result.

In two exceptions to this pattern (polystyrene and lysine), the State Economic and Trade Commission (SETC) has dismissed petitions outright for failure to prove that the domestic industry has been injured. The evidence of non-injury cited by SETC in the most recent case (lysine, September 2002) was convincing. Interestingly, however, the evidence of non-injury was markedly less persuasive than that in other cases in which SETC has found injury, suggesting that the outcomes in both polystyrene and lysine cases resulted less from the persuasiveness of the evidence than from the political clout of opposing domestic interests.

Rules of battle

The procedures in a trade investigation are, in many respects, at least as important as the results. If the procedures have been proper and the parties have had a reasonable opportunity to present their evidence and arguments, the result is more likely to be fair. There will also be a record that can be analyzed. It is then up to the governments of the companies concerned to determine whether they can live with the results or wish to take those results to a WTO panel. That is the way the system is intended to work.

The procedures Chinese officials have followed in recent antidumping and safeguard investigations have been formally consistent with the applicable WTO agreements. The PRC authorities have given notices of investigation, sent out questionnaires to interested parties and received replies; held hearings, conducted on-site verification visits, and issued interim and final decisions. And their administration of these procedures has improved markedly in the last year, with better resources, more staff, additional training, and, above all, greater experience. Chinese agencies have sharpened their investigations and now deal more confidently with the broad range of issues that inevitably arise in such investigations.

Even so, there have been recurrent procedural problems in China's trade remedy investigations. These problems fall roughly into two groups.

- **Chinese trade investigations: The black box**

WTO procedures are premised on transparency. In one fashion or another, WTO trade remedy agreements require that all procedures, evidence, and argumentation be open to all parties. Exceptions for confidentiality are narrowly drawn, and every effort is made to ensure that the parties' interests are not compromised by those exceptions. Final decisions must also be wholly transparent. The parties should be able to read the decisions and readily identify the evidence and methodologies that have been used and the

Warring Steel Industries

More dramatic and less expected than China's antidumping ventures was China's entry into the 2002 steel trade war. This was not a battle of China's making, but China quickly joined the fray.

Safeguard measures, like antidumping measures, are an exception to the World Trade Organization's (WTO) strict rules binding members to agreed tariff rates. Antidumping measures are justified by unfair import pricing. Safeguard measures are a more general escape clause. If an "unexpected development" causes a sudden surge of imports that in turn causes or threatens serious injury to the domestic industry, an importing country can impose measures to protect its industry long enough to adjust. Prices are irrelevant.

In March 2002, US President George W. Bush announced the application of safeguard measures to a broad range of steel imports into the United States, including imports from China. The measures imposed additional, onerous duties on many categories of steel imports, effectively barring them from the US market. The US action was highly controversial and provoked an international trade crisis.

Almost immediately, countries that were exporting steel to the US filed requests for WTO dispute panels. The European Union, Japan, and South Korea led the way. China was not far behind. China's application for a panel (WTO Document No. WT/DS252/5, May 27, 2002) was carefully drafted and follows WTO law and practice. A panel was appointed and reportedly held initial hearings in November.

In late May, China also announced its own safeguard investigation of steel imports into China (Ministry of Foreign Trade and Economic Cooperation [MOFTEC] Public Notice No. 29 [May 20, 2002]). The investigation covered 84 harmonized tariff schedule (HTS) tariff codes, encompassing a broad range of steel products. Pending a final decision, China applied provisional measures to products within 48 of these HTS tariff codes, consisting of global quotas that, once filled, led to the imposition of additional duties (MOFTEC Public Notice No. 30 [May 21, 2002]).

On November 19, China announced the imposition of final safeguard measures to five categories of steel products encompassing 27 HTS tariff codes (MOFTEC Public Notice No. 48). The measures take the form of "tariff quotas"—additional tariffs payable after imports in a given year exceed a specified quantity of the product that is based on average imports over the last three years. For three of the product categories, the safeguard-free quotas are applied on a country-by-country basis. For the other two, the quotas are global. The quotas each rise by stipulated percentages annually, and the tariffs fall progressively each May, terminating entirely after three years.

The following day, the State Economic and Trade Commission (SETC) announced that the measures would not apply to 11 products within the five product groups because the domestic industry did not make the specific product in question and was not, therefore, being injured by its import (SETC Notice No. 829 [November 20, 2002]). Remarkably, SETC does not appear to have informed MOFTEC of this announcement in advance.

Government officials announced that the Chinese safeguard measures complied strictly with WTO standards. This is certainly true of the tariff quota measures and the terms of arguments that have been considered and rejected. In addition to considerations of due process, this transparency permits foreign producers to identify the specific reasons for an adverse determination and, if possible, to correct the problems and continue trading. It also ensures that there is a clear record to be reviewed by a WTO dispute panel if the foreign party's government wants the decisions reviewed later.

China's investigations are, in many respects, precisely the opposite. There is, first of all, no requirement that the parties exchange their legal and evidentiary filings and be permitted to comment on one another's positions. More likely than not, the Chinese parties are provided, one way or another, with the filings of all foreign parties (with confidential sections, one hopes, excised). The converse is certainly not true. Foreign parties frequently do not see the filings of domestic parties at all or, at best, only after it is too late for them to be useful.

Even access to the Chinese parties' filings is not entirely helpful. Chinese parties routinely request confidential treatment for virtually all of the data they file. The WTO trade remedy agreements authorize such requests but only for genuinely proprietary data. Much of the data withheld by Chinese parties fall far short of that standard. Virtually any kind of information, including sales, revenue, production, employment, and capacity utilization data, current and past, is stamped "confidential" and deleted from any materials provided to foreign parties. In fact, this same information is often available from public sources in China, on the Internet, or in the Chinese petitioners' own public financial reports. Chinese agencies nevertheless routinely acquiesce in the Chinese parties' confidentiality requests. These practices are explained in part by China's longstanding tradition of deeming much economic information secret, and in part by the Chinese legal system's unfamiliarity with handling confidential data in adversarial proceedings. Whatever the cause, the result is that foreign parties find it impossible to confirm the accuracy or completeness of the data the Chinese parties have submitted.

Following procedures common in Chinese courts, in Chinese trade investigations communication between only one side of a case and the investigating agencies is also the rule, not the exception. To some extent all parties are granted such ex parte access, but it is highly probable that ex parte contacts between the domestic Chinese producers and the investigating agencies are more extensive and at higher levels. In some instances, too, Chinese authorities have reportedly held meetings with groups of Chinese endusers. Foreign importers are not notified of these meetings nor are they permitted to attend. The result

their application. China's authority to apply the measures in the first place may, however, be disputed on a number of grounds.

China's rationale for imposing steel safeguards is that the US and EU measures closed those markets to steel imports, diverting the products to China. Article XIX(a)(1) of the General Agreement on Tariffs and Trade requires, however, that any injury be the result of an "unforeseen development." The US safeguard measures could not qualify as "unforeseen" since China admitted that it was fully aware of the pending US investigation when China entered the WTO in December 2001.

Even if the US measures somehow qualified, the "unforeseen development" has to cause an increase in imports that in turn causes injury to the domestic industry. The US measures, however, took effect in March 2002. All of the injuries cited by China took place from 1997 to 2001. It was literally impossible for the US measures to have caused the injuries China alleged.

Many evidentiary and procedural shortcomings could be cited as well. It was highly doubtful in several cases that imports had, as required, "increased." For three of the five product groups, imports had steadily decreased in recent years. There had been a short recent surge in imports for these products, its cause was unclear and prices had, in any event, risen throughout the surge, so the domestic industry was clearly not being injured.

The injury data, as in many antidumping cases, were also suspect. For virtually every product, the data cited in the decision showed production capacity, output, sales, productivity, wages, and other such indicators steadily, and often dramatically, increasing from year to year. To provide even a veneer of "injury," Chinese authorities were forced to select anomalous data from one or two years and cite it in the face of a mass of contradictory evidence. Meanwhile, Chinese government and industry officials continued throughout the course of the investigation to trumpet how well the domestic industry was doing.

In short, China's rationale for safeguard measures was wholly unconvincing.

A more likely explanation for China's actions is that the US and EU safeguard measures simply provided China with an excuse to apply protectionist measures that were otherwise difficult to justify under its new WTO obligations. Prior to China's WTO entry, its domestic steel industry had been protected from competition from foreign imports by various licensing programs. China was obliged under the WTO to terminate those programs, and the Chinese trade press was full of foreboding.

China may also have wanted a direct stake in any subsequent negotiations on these important international trade issues. The risk to China probably appeared limited. The US measures were highly vulnerable to a legal challenge, and China could rely on the European Union and Japan to take the lead in that battle. China's own measures are at least as vulnerable, but the challenges to the US and EU measures will go before WTO panels first. China will have time to maneuver diplomatically before its own measures, if challenged, are actually subjected to scrutiny before an international tribunal.

—Patrick M. Norton and Kermit Almstedt

Transparency problems permeate China's investigations. On this basis alone, few, if any, of China's decisions to date would be able to withstand the scrutiny of a WTO panel.

of these kinds of procedures is, again, that no foreign party can be entirely certain what information is being provided to the investigating authorities or on what basis.

Nor are the investigating authorities' decisions transparent. SETC injury and causation determinations are generally unsubstantiated. The sources for the data on which they are ostensibly based are not identified. In many cases, no data is even cited; SETC expresses its factual findings only in percentage changes. In cases that do cite actual data, SETC findings are often inconsistent with that data. Other findings are plainly disingenuous. For instance, SETC almost invariably cites decreased employment as evidence of injury to an industry even when it is government policy to reduce employment in that industry. Most troubling, SETC often ignores evidence entirely—including official SETC reports and reports from the petitioning Chinese industry—that contradicts SETC injury and causation findings. In this respect, many SETC decisions have conspicuously failed to comply with the WTO Antidumping Agreement's requirement that investigating authorities examine all contrary evidence and arguments and explain why they have been rejected.

MOFTEC's pre-WTO antidumping determinations were also problematic. From the decisions themselves it was generally impossible to determine either the evidence on which MOFTEC had relied or the methodology it had used to make specific dumping margin determinations for foreign producers. The actual determinations may have been defensible, but on the face of the decisions it was impossible to tell. Recent investigations have shown considerable improvement. The general analyses appear to be both more sophisticated and more reasonable than previously. The company-specific data on which MOFTEC determinations rest are, however, genuinely proprietary and are not, therefore, available for review. Without being able to review the data and calculations case-by-case, it is impossible to be certain how closely they conform to WTO standards.

Transparency problems thus permeate China's investigations. On this basis alone, few, if any, of China's decisions to date would be able to withstand the scrutiny of a WTO panel.

● **Form over substance**

In other areas, Chinese investigations follow the form of WTO rules but sometimes seem to miss the intent.

There is, first of all, a general reluctance to conform to WTO procedural requirements when adverse determinations might be contrary to the interests of the Chinese petitioners. In some cases, the definition of the product under investigation is unclear, and a proper comparison of competing imports and domestic products cannot be made without a clarification. In others, the Chinese petitioners appear not to satisfy basic qualifying criteria set out in the applicable WTO agreement—for example, they do not represent the requisite share of the domestic industry; they themselves are importers of the products to be investigated; or they are affiliated with foreign importers. Chinese agencies have often failed to make timely rulings on these and similar issues. In many cases, they have simply not responded to foreign parties' written requests for rulings. Recent decisions show improvement, but there is still a long way to go.

Hearings in Chinese investigations also present problems. In form, they are generally unobjectionable. Each party is afforded an opportunity to present its arguments in a formal hearing presided over by a panel of officials, who keep the proceedings strictly under control. Behind the formality, however, the hearings often lack the elements necessary to illuminate the facts or issues. Members of the panel never ask questions of witnesses or counsel. The Chinese petitioners and foreign parties are typically given exactly the same amount of time, regardless of whether that time is appropriate to an effective presentation of their evidence and arguments. Often, the time allocated to the foreign parties is clearly inadequate. (The safeguard investigation was most striking, with representatives of entire foreign steel industries sometimes given no more than two or three minutes to discuss important products.) And foreign producers have sometimes been barred from presenting supporting testimony from their Chinese buyers, even though such testimony may be the most persuasive evidence in support of their legal and factual arguments. Foreign parties are often left with the impression that simply holding the hearing is the goal; actually advancing the investigating agency's understanding of the legal or evidentiary issues appears secondary.

Administrative law with Chinese characteristics

The fact that China is holding administrative investigations of important disputes between domestic and foreign companies, with each party permitted to file briefs and participate in public hearings, is itself remarkable. It is difficult to think of any comparable proceedings in China, now or in the past. As with so many developments in China today, these proceedings would have been unthinkable just a short time ago. One must, accordingly, be cautious in criticizing their shortcomings.

The lack of a tradition of adversarial legal proceedings in China may explain some of these shortcomings. In more developed legal cultures, it is easy to take for granted various procedures for exchanging written briefs, submitting evidence, holding hearings, ruling on preliminary procedural questions, and dealing with confidential data that, in fact, took decades, if not centuries, to evolve. Many of the procedures set out in various WTO agreements presuppose such a legal culture. China's bureaucracy and legal profession are not yet well grounded in these practical aspects of adversarial proceedings, and it is therefore not surprising that China has difficulty implementing them.

WTO dispute resolution procedures also rest on a number of unstated assumptions about the form and purpose of dispute resolution that are generally subsumed under Western concepts of the "rule of law": impartial third-party decisions, clearly articulated substantive rules, transparent evidentiary presentations and legal arguments—all with the goal of meting out justice between the parties to the dispute. In contrast, the traditional goal of dispute resolution in China has often been less a "just" result for the parties to the dispute than a result satisfactory to the broader community. General legal precepts have often been preferred to carefully articulated written legal standards. Decisions have typically been entrusted not to an independent judiciary but to an elite vested with both administrative and judicial powers—the mandarins in imperial times or, more recently, communist cadres. And this decisionmaking elite has been trusted to obtain evidence or views any way it considers appropriate, including secret consultations with prominent interests in the community. China is moving away from these traditions, but their influence on many judicial proceedings in contemporary China persists. It would be surprising if these traditions did not influence administrative proceedings as well and explain, if not justify, the ways that China sometimes conducts trade investigations.

Trade remedies in a transitional economy

China is rapidly moving toward a market-based economy, but important vestiges of its socialist economy remain. This aspect of China's past may also affect trade remedy investigations on various levels.

Most important, the petitioners in Chinese trade investigations are typically state-owned enterprises. Thus, the Chinese state has a direct economic interest in the outcome of the disputes it is investigating—a situation, if not unique among WTO members, far greater in scale than anywhere else. Moreover, China does not entrust the investigations to separate, impartial government agencies. SETC is responsible for determining whether imports are causing injury to the petitioning Chinese industry. At the same time, SETC is vested with broad responsibilities for planning large sectors of China's industrial economy, including many of the industries under investigation. The outcome of a given trade investigation may well have an important impact on a sector for which SETC has direct planning responsibilities. (MOFTEC does not have the same integral relationship with as many domestic industries.)

The extensive role of the government in China's economy may have other effects on investigations. A common feature of trade remedy investigations in other countries, for example, is the open conflict between the domestic producers who are petitioning for additional duties on imports and the domestic endusers who will ultimately pay a large share of those duties. It is therefore surprising how few Chinese endusers, despite their interest in the results, participate in Chinese trade investigations. Even foreign-invested enterprises have been reluctant, in many instances, to step forward and publicly defend their interests in these proceedings. One can only assume that these companies are intimidated by the prospect of publicly confronting the government. Although many of these endusers in China reportedly express their views to the government in private, such off-the-record contacts are inconsistent with the transparency required by the WTO.

Judicial review

One potentially important aspect of China's trade investigation regime remains untested. WTO trade remedy agreements generally require the availability of judicial review of the administrative rulings. In August, the Supreme Court announced that the administrative divisions of the intermediate courts would have jurisdiction over such reviews. In December, the PRC media reported that the Supreme Court will allow a company that believes itself injured by an antidumping or antisubsidy decision to challenge the government's decision in court. There have been no cases to date.

China's proposed judicial review process for administrative trade remedy decisions will also raise questions about whether China's governmental system can operate as the WTO agreements intend. China will have a strong interest in showing that its courts are able to handle important international cases impartially and competently. The WTO system, however, presumes an independent judiciary, and few would characterize Chinese judges as independent. All judges in China are appointed by, and answerable to, the Communist Party. They may be allowed to exercise considerable discretion in commercial cases, but cases involving important political interests typically generate consultations between the judges and political authorities. Any cases involving judicial review of high-level government agency determinations in an international trade dispute will certainly fall within this political category. It will be interesting to see how China deals with this dilemma.

Continued on page 42

Few of these criticisms of China cannot also be made, in one degree or another, of other WTO members. If China's steel safeguard measures appear suspect in many respects, it is well to remember that they were precipitated by equally questionable measures adopted by the United States.

THE SMALL FRY TAKE ON CHINA

ROSEMARY D. GALLANT

Tips and strategies for small and medium-sized companies looking at the China market

Rosemary D. Gallant
is a commercial officer at the US Department of Commerce's Export Assistance Center in Middletown, Connecticut. She has worked for 11 years for the US and Foreign Commercial Service in Shanghai, Hong Kong, and the American Institute in Taiwan. She joined the China office of the Commerce Department in 1988.

The author would like to thank Thomas Lee Boam, PhD, and Julie Carducci for their contributions to this article. Boam is minister counselor for Commercial Affairs, US Embassy, Beijing, and Carducci is an international trade specialist in the Chicago Export Assistance Center of the US Department of Commerce, who served four years as a commercial officer in the US Embassy, Beijing.

As China continues to grow, and to implement its World Trade Organization (WTO) commitments, more and more small and medium-sized US companies have sought—and found—opportunities to sell their goods in China. With US exports to China up 18.5 percent in 2001 and an estimated 15 percent in 2002, more US firms than ever before have questions about how to succeed in the China market. The interest is especially strong among small and medium-sized enterprises (SMEs), despite the limited resources these companies can commit. How, then, are they finding out how to enter the China market? A look at 10 small American companies with successful sales efforts in China, together with information from the US Department of Commerce (DOC), points out some of the key dos and don'ts of doing business in China on a small budget.

The 10 companies—in industries ranging from specialty chemicals, to fire and safety products, to high-end consumer goods—share common concerns. They have learned that, unlike companies in other markets, Chinese companies typically lack a credit history and rely heavily on relationships; that the Chinese legal system is underdeveloped; and that the PRC government has imposed barriers on a broad range of products. Nonetheless, the companies employ the same basic export strategies and tools they use around the globe: They research the market, conduct careful due diligence, identify reliable distributors, and employ prudent payment practices. These companies also monitor the market closely to take advantage of changing opportunities.

Lesson 1: Diverse markets require careful research

Any firm entering the China market must understand China's diversity—its varying levels of development and regional industrial strengths. From Harbin, Heilongjiang, in China's Northeast, to subtropical Haikou on Hainan Island, China encompasses diverse topographies, climates, cultures, and peoples. Each region therefore has its own consumer preferences and business needs. Some industries are spread all over the country, some are clustered, and others are heavily concentrated in one area. For example, of the roughly 3,000 personal care product factories in China, 2,700 are located in southern China's Guangdong Province.

Small US companies typically cannot afford to hire a high-priced market-entry consultant to guide them in China. Instead, they rely on numerous other sources of information on China's markets. Basic market research is available from DOC, as well as a host of less-expensive private consulting and research companies, and trade groups—like the US-China Business Council, publisher of this magazine. To help US companies follow local markets and make local contacts, DOC maintains offices in six cities in the PRC (Beijing; Chengdu, Sichuan; Guangzhou; Shanghai; Shenyang, Liaoning; and Hong Kong). Similarly, many companies need multiple representatives to cover China.

All of the SMEs interviewed for this article continually supplement their understanding of the market through such sources. And because China's market is changing rapidly, trade shows and other opportunities that allow companies to make contacts directly with potential customers are also critical to success.

Lesson 2: Find the right partner

SMEs, unlike large multinational corporations, tend to start by exporting to China rather than establishing a large operation on Chinese soil. They need to find a cocunterpart of counterparts in China to make sales and deliver products for them. Companies can locate distributors or sales agents through a variety of methods, including trade shows and business connections. DOC offers two programs that help companies find representation in the market—the Gold Key Service and the International Partner Search (*see www.buyusa.gov*). The Gold Key Service can provide instant business relationships, or *guanxi*, for companies new to China, by setting up customized, prescreened appointments with potential importers, distributors, endusers, or, if desired, government agencies or trade associations. The International Partner Search provides detailed company information on prescreened partners that have expressed interest in the US company's products or services. Both services are effective ways for newcomers to contact interested, qualified agents in China. Companies already in China seeking further representation may consider using either service. One midwestern industrial equipment company used a small and underfunded distributor in China for 10 years. In early 2002, the company traveled to China on a trade mission that included Gold Keys in Beijing and Shanghai. The 15 meetings arranged through the Gold Keys led the US company to sign up four new distributors covering four areas from Dalian, Liaoning, in China's Northeast, to Shanghai along the southeastern coast.

Several successful companies interviewed for this article use independent distributors that were either established by entrepreneurs in China or are branches of companies from Taiwan, Hong Kong, or Singapore.

Several successful companies interviewed for this article use independent distributors that were either established by entrepreneurs in China or are branches of companies from Taiwan, Hong Kong, or Singapore. Other companies work through major state-owned trading companies that provide wide geographic coverage. The number of distributors these companies use range from two to 34, but regardless of the number, the US companies screened them as thoroughly as they screen distributors in other markets, requiring business plans, interviews, and background checks before signing them on.

Finding the right partner or distributor and employing prudent payment practices are particularly critical in China, where the judicial process is slow, expensive, and plagued by corruption. Rather than relying on legal safeguards, American companies need to ensure that their Chinese counterparts in any contract have their own motivation for fulfilling, or performing according to, the contract.

Lesson 3: Build strong relationships

Cultural guidebooks on doing business in China emphasize the importance of personal connections. Networking is an aspect of doing business around the world, but it can take on added importance in a society with a complex bureaucracy and a weak legal framework. A web of *guanxi* helps firms navigate China's bureaucracy and distribution challenges. This is true for large firms but even more so for small firms or their agents or local representatives.

The importance of relationships is another reason why many smaller American companies choose to sell through trading companies or local distributors, even if they have an office in China. Representative offices, the most basic, least-expensive type of foreign commercial presence in China, may only perform "liaison" activi-

Companies that are serious about doing business with China should supply information about their company in Chinese and be prepared to initiate contact in Chinese.

ties; Chinese law does not allow these offices to sign sales contracts or bill customers directly. But for most small US companies, even establishing a representative office is more than they can afford. As a result, agents and local representatives are crucial.

One small, well-established service supplier with a presence in several far-flung Chinese cities regularly finds itself nurturing relationships with suppliers, staff, local officials, and central authorities. This web of relationships supports the smooth running of its business, helps it solve problems, and gives it access to information. To keep business growing, the company must balance the demands of building and maintaining useful relationships with its more fundamental job—providing excellent healthcare service to patients at a reasonable cost.

Lesson 4: Speak the same language

Despite China's commitment to, and success in, developing human resources with good English-language skills, companies that are serious about doing business with China should supply information about their company in Chinese and be prepared to initiate contact in Chinese. Having Chinese-language material prepared and a Chinese speaker or translator available makes a great first impression and demonstrates that a company is serious about doing business in China.

SMEs also need to be resourceful about finding affordable Chinese-language expertise. For initial oral communication, a number of the interviewed companies used Chinese-speaking employees from other parts of the company to help with sales and marketing to China. One business has an individual responsible for placing sales calls to China stay late at the office to introduce the company during business hours in

Keys to Business Success in China

CBR Assistant Editor Paula M. Miller recently spoke with Thomas Lee Boam, PhD, minister counselor for Commercial Affairs, US Embassy, Beijing, about how US companies can use the services of the US Department of Commerce (DOC) to break into the China market

CBR: What is the role of the US DOC in Beijing? Do you serve small and medium-sized companies only?

Boam: Our mandate is to assist small and medium-sized businesses in our US DOC offices throughout the world. That said, we find that all US businesses in China need our help, so we respond to all inquiries.

CBR: What percentage of US companies doing business with China use your service? How many US companies do you help on average?

Boam: We don't have exact statistics on this kind of information but we were involved in approximately 200 trade missions last year and assisted several thousand firms. DOC sees as many CEOs of big companies as small ones—every type of company asks for help. In China, we had \$3.7 billion in success stories last year—this is the highest of any of the countries in which we operate. Last year, total exports from the United States to China were over \$23 billion. We were involved with nearly 15 percent of total sales to China.

Fifteen years ago, the US embassy in Beijing probably saw over 90 percent of businesspeople who came to China. At that time, embassy help was almost a necessity to establish business with China. Today, we see less than 50 percent of businesspeople who conduct operations with China. This percentage is still far greater than in the average European country, but it is lower than in countries like Vietnam.

CBR: What are the most common problems US businesses encounter in China?

Boam: The most common problem is a failure to conduct proper due diligence and risk analysis before doing business in China. Business executives sometimes get overexcited when they think about conducting business with more than 1.3 billion people and become careless. We have approximately \$4 billion in trade complaints in our office, including many that could have been avoided if the American business executives had prepared properly. About 75 percent of the cases we see are self-inflicted wounds—the US company did not do anything wrong or illegal, but they did not prepare well. For example, it's not difficult to find out if your business is allowed to have joint ownership under Chinese law. We have seen numerous cases in which companies will depend on their Chinese partner to tell them the law, without doing their own homework, or hiring competent legal counsel, and this can lead to serious errors. Other key problems involve contract difficulties and intellectual property (IP) right abuses.

CBR: How do the needs of smaller companies compare with the needs of larger companies?

Boam: Smaller companies generally need greater assistance—especially in determining if there is a market at all in China for their products or services, and how this market will be regulated and controlled. Larger companies generally have greater resources to evaluate the market and create entry strategies. For the smaller companies, our offices can often replace much of the work that the large companies can assign to internal staff, through our services [see *www.usembassy-china.org.cn*].

Smaller companies also tend to be more careful than larger companies—this may be because a mistake to a small company could put them out of business while larger companies generally have a little more room for error.

CBR: What is the easiest sector for US businesses to enter in China? What is the hardest?

Boam: Several years ago Gordon Wu, a Hong Kong industrialist, told me the secret of doing business in China. He said, "Sell the Chinese things that they need." This sounds basic, but this advice solves many problems—of course it is ineffective to try to sell people things they don't

China. Another transferred a Chinese-American from the factory floor to the marketing department to handle Chinese customer accounts. Interestingly, once contact was made in Chinese, several companies indicated that they then conducted routine business in English via e-mail without a problem. Similarly, all of the successful companies interviewed for this article have invested in developing Chinese-language material about their companies and products. Companies either worked with their distributors on the translations, used outside professional firms, or used their US staff to produce business cards, brochures, and other literature.

Lesson 5: Get paid—on time

One critical difference between China and most other markets is the country's lack of a predictable, systematic approach to credit and receivables management. Indeed, perhaps the number-one risk of doing business in China today is the difficulty of collecting full payment on time. The US Embassy in Beijing probably handles more trade complaints and payment problems than any other US embassy in the world. The embassy's senior commercial officer estimates that he currently has trade complaints worth $4 billion on his desk (*see* p.32). The experience of one US manufacturer illustrates this problem: The manufacturer established an office in China and made sales of $300,000 in its first year. In the end, nearly one-third of the customers did not pay for deliveries, and the receivables eventually had to be written off.

The lack of objective credit procedures, including data about credit worthiness, makes debt prevention an issue for all companies operating in China—foreign and local, small and large. China is keenly aware of the need to develop credit infrastructure and is attempting to establish credit management tools. For example, in 1999, the People's Bank of

One critical difference between China and most other markets is the country's lack of a predictable, systematic approach to credit and receivables management.

---

need or want. The most successful businesses will be those that cause an increase of wealth in China and growth in China's economy. For example, selling products or services in infrastructure, industry, energy, mining, chemical, and medical or medical-diagnostic sectors can be very profitable. Things that improve quality of life and economic viability in China are among the best markets.

Foreign companies run into problems when China already has substantial sources of domestic production and supply of the products the US company wants to export or produce. For example, sales of agriculture and food products are difficult—since China is self-sufficient in food, consumers can buy domestically. In addition, tariffs are still relatively high.

CBR: What are your top three recommendations for small and medium-sized companies that want to get started in China?

Boam: The first priority is market research. There needs to be a market for the product. By this I mean there must be both demand *and* desire. Demand and desire are two different things, and companies wanting to do business in China often confuse the two. People need to have money in order to buy products, so "demand" is desire with disposable income associated with it. In 2001, the per capita GDP in China was about $900. There are approximately 800 million people living on less than $1 per day. This means China is not an appropriate market for many items, and while there is plenty of desire to buy the products, there is not a lot of demand.

The second recommendation is to make sure that you write a good contract. Companies must be careful when writing the contract. They must conduct due diligence, confirm the viability of the partner—make sure the Chinese partner will be able to perform—make certain they will be paid. Contract negotiations are very different in China from the United States, and American companies that are not prepared for this may find themselves saddled with bad deals. Good legal counsel is a must.

The third recommendation is to protect your IP. Companies need an IP protection plan as part of their strategy for doing business in China. It costs money to protect your IP rights. There are laws in China to protect you against theft of your intellectual property, but this does not mean you can relax. There are laws against bank robbery in the United States, but banks still take actions to protect themselves. It is no different in China.

CBR: How do you think China's entry into the World Trade Organization (WTO) will ultimately affect US businesses?

Boam: It has been one year since China's accession to the WTO [December 11, 2001]. I'd say, "It's been the best of times and it's been the worst of times." The PRC government has done better than we expected in many ways: tariffs have dropped, quotas have gone down, and some of these reductions are a year ahead of schedule. However, in other areas China is lagging behind. For example, certain areas in agriculture, some tariff-rate quotas, standards, Customs inspection procedure difficulties, etc. are not progressing as quickly as we would like.

Overall, I'd give China good marks—but this means some things were done very well and some very poorly. If I were to give China one grade it would be a "B-." The "B-" would be a combination of As and Ds with little down the middle.

Recently I've seen encouraging signs. There seems to be a new willingness to carry out negotiations and work on tough spots—a new level of cooperation. We hope this is a sign of things to come, since both China and the United States have a lot to gain from China's full compliance with WTO. This issue gets an enormous amount of attention from a variety of American institutions, and I think we are on the right road. We will continue to monitor China's accession, provide assistance and training, and when necessary, point out areas in which we have disagreements. We think the Chinese also see that WTO compliance is in their best interest, or they would not have signed the agreement, so we will continue to work with them at all levels.

To minimize risk, companies just entering the market can protect themselves by not selling on credit. Exporters frequently require full payment in advance from their distributors or customers.

China announced the Measure on Bank Credit Registration and Information Management (Trial), designed to implement a national bank credit registration and information management system. In September 2002, State Administration for Industry and Commerce offices in Shenyang, Dalian, and Harbin, along with the Jilin provincial office, were building enterprise credit information websites, but it will be several years until a reliable system is in place nationwide.

The lack of credit infrastructure makes determining creditworthiness challenging—but not impossible. Companies need to spend the time and money to analyze customers' and partners' creditworthiness or minimize the exposure to the risk of nonpayment. DOC's International Company Profile service can help companies understand the background of potential customers or business partners by providing reports on individual Chinese companies. DOC in China subcontracts with Kroll Associates, an American investigative service firm, for parts of these reports. Commercial Service staff members provide additional information about the relative strength of the firm in its market and the firm's reliability.

In another example, a small US firm that provides specialized training for the financial services industry in China recently ran into trouble when it attempted to save money by foregoing due diligence, relying instead on a personal referral. The first training session it organized with its local partner was well attended, but success soon gave way to a trade complaint. A company representative stressed, "When I say the Chinese company took advantage of us, I mean it in the full extent." In this case, the partner collected $10,000 in registration fees but refused to share information on the number of paid participants. The representative continued, "When it came time for [the partner] to pay us the money agreed upon she reneged. She paid me $1,000 cash and promised to pay 50 percent via wire. We will lose 90 percent of what we agreed to." Given the vast need for financial services training in China, the US company decided to plow ahead despite this experience, but with a more cautious strategy.

This small service provider subsequently found success—packed training sessions *and* full payment for its services—by establishing a relationship with a domestic Chinese insurer. The US company found that locating a reputable partner through extensive research and requiring third-party confirmation of information could help avoid further trade disputes.

To minimize risk, companies just entering the market can protect themselves by not selling on credit. Exporters frequently require full payment in advance from their distributors or customers. One credit manager has his multinational corporate clients in China pay his company directly, via bank transfer. For local Chinese buyers, the American company requires payments from its distributor before releasing shipments.

The local distributor is responsible for collecting payment from the endusers that placed orders. Two US consumer products companies made their first significant sales to China this year, in both cases to retail companies. The two US companies obtained full payment prior to shipment, allowing them to gauge consumer interest in their products while limiting their risk.

A midwestern company makes regular sales to China using a DOC catalogue *Commercial News USA*, again requiring all payment in advance. Longer-term or more substantial success will no doubt require greater flexibility on payments, but at least these companies have not been burned in their first experience in China.

Lesson 6: Consider investing on the ground

After setting up a distribution function, the next step for most companies is establishing a direct market presence. In the past, this meant establishing a joint venture, partly because Chinese law restricted wholly foreign-owned enterprises (WFOEs) to those providing advanced technology or those that were primarily export oriented. Joint ventures also promised to provide the foreign company with *guanxi.* But as China has liberalized its laws on foreign investment and allowed the establishment of more WFOEs, an increasing number of US companies have found the WFOE to be a viable way to enter the China market, since it takes much less time and money to set up than a joint venture. In 2000, for the first time, WFOE registrations exceeded joint ventures. By 2001, WFOEs accounted for 60 percent of new projects. (China still prohibits WFOEs in a number of sectors, including insurance and telecommunications services, and other sectors it deems sensitive.)

Two small northeastern US companies recently took advantage of this new opportunity. The first one has been aggressively exploring the China market for six years. The company originally tried to work with a local partner to distribute and install its products, but found that even with the US side maintaining 60 percent ownership of the venture, the local partner always wanted to be in charge. Eventually the US company decided to establish its own facility, but negotiating with potential partners had cost it a year. In early 2002, the company set up a stocking facility in a centrally located free-trade zone.

The facility, a $300,000 investment, not only allows the US company to ship large quantities of product to China, but it also provides customer and technical support and a training facility. The free-trade zone operation now handles customers' calls, which used to come to the factory's New England headquarters. The company's independent distributors in China also benefit because product education is done in-country for much less than it costs to bring customers to the United States. The US company's presence in the free-trade zone authorizes it to convert renminbi (RMB) to US dollars to repatriate profits and allows the company to bill in local currency (RMB). This has given the company access to many more customers.

The leadership of another small company, a safety device manufacturer, decided about five years ago to manufacture in China. In 1994, the company had established an office in China, which was very successful in developing sales, until two significant problems arose. First, one-third of the customers did not pay. Second, local Chinese companies noted their success and started making knockoffs of their products and selling them for half the price the American company was charging. Eventually the company closed the sales office but wanted to pursue local manufacturing to match the cost basis of the knockoffs and to control payment collection better. The US company reviewed six potential manufacturing companies before finally finding a small plant, located in a coastal province, that the company bought and now operates as a WFOE. After just one year of operation, the factory has already turned a profit. The US manager stated that the company's willingness to wait for just the right fit was critical to its ultimate success.

Lesson 7: Look before you leap

Despite many anecdotal successes, China is still a medium-sized export market for US firms—a market larger than France but smaller than South Korea. Companies must be persistent in their efforts but flexible in their strategies to take advantage of the changing landscape. And when they need help, US companies should use available services, from DOC as well as from the many professional law, accounting, marketing, translation, and other firms. One good starting place is the Commercial Service China website, *www.buyusa.gov/china/en*. SMEs can use the recently revamped site to find information on Commercial Service China services, Beijing 2008 Olympic updates, and industry highlights.

China is a rapidly changing market that requires a great deal of caution and patience. Companies should test the water carefully before jumping in. With proper preparation, however, even the most wary SMEs can position themselves to profit from China's growth in the years to come. 完

China is still a medium-sized export market for US firms—a market larger than France but smaller than South Korea.

THE UPS AND DOWNS OF THE PRC SECURITIES MARKET

JI CHEN AND STEPHEN C. THOMAS

China's fledgling stock markets are growing up

Ji Chen
is on the finance faculty of the College of Business and Administration, University of Colorado at Denver.

Stephen C. Thomas
is associate professor of Chinese politics at the University of Colorado at Denver.

Recognizing the importance of developing alternative outlets for China's high level of savings, China's leaders have focused their reform efforts on the securities market in recent years. The PRC government's official goal is to create a capital market that will provide a platform for Chinese companies to raise badly needed long-term capital and to offer investment opportunities for China's individual investors.

China's securities market has seen dramatic gains in size, participation, and legal and regulatory development. China had no securities market in 1989, yet by the end of October 2002 had developed a securities market with 1,215 listed companies (*see* Table) and a market capitalization of ¥4.27 trillion ($514.3 billion). In 2001 this level of capitalization was equal to about half of China's GDP, making China the second-largest securities market in Asia after Japan (the tradable market capitalization is much lower because about two-thirds of company shares are government owned and not traded). The pool of investors has also grown substantially.

Despite such expansion, the growth rate of the securities market has lagged behind other economic growth indicators, such as GDP, savings, foreign trade, and foreign direct investment. Since 1993, when the Shanghai Stock Exchange (SSE) Composite Index reached nearly 1,300, the SSE had risen only about 3 percent per year, reaching a trading range of 1,600 to 1,700 in 2002.

A host of problems have slowed the development of the market—from a weak legal structure and poor enforcement to heavy government interference in market operations, particularly decisions over which companies may list on China's exchanges. Yet Chinese officials appear to have recognized that substantial changes in the legal and regulatory structure guiding the industry are necessary, and that foreign firms can also play a role, if a limited one, in assisting modernization.

Five years of growth

China's stock markets are divided into A shares, which are shares in Chinese companies available only to Chinese investors and purchasable in renminbi (RMB), and B shares, which are available to foreigners or Chinese investors purchasing in foreign exchange—US dollars in Shanghai and Hong Kong dollars in Shenzhen. A shares constitute about 95 percent of negotiable shares, and B shares total about 5 percent. Most listed Chinese companies are large state-owned enterprises (SOEs), and only about one-third of their shares are traded. As mentioned, two-thirds of all shares are tied up—held by state governments and legal persons, state institutions, and other SOEs.

Though Chinese markets grew moderately in the late 1990s, in 2000, A-share prices rose a dramatic 50 percent, while B shares rocketed 136 percent (making China the best performer among all world markets in 2000). Markets started off well in early 2001—but in May of that year, China's markets began a sharp decline that turned into a 33 percent drop by the end of 2001. The SSE fell from a high of 2,200 in May 2001 to 1,645 by the end of that year. In 2002 markets hit a low of 1,400 and a high of 1,700—a relatively narrow range. The SSE index as of late 2002 was in the 1,600s.

Such market fluctuation occurred despite the surge in individual Chinese investors' participation over the last five years. At the end of October 2002, there were 68.6 million individual accounts, up from about 30 million in 1997, although the number of actual individuals may be much lower because many people have multiple accounts. The number of institutional investors is also growing, though institutions still own only about 6 percent of circulating shares.

Chinese investors' attitudes have swung from high enthusiasm for stocks in 1997 to a current interest in bonds and other investment vehicles. Chinese investors have become wary of equity investments, but with savings of ¥8 trillion ($966.5 billion), they are searching for new investment vehicles. Recently many have shown interest in insurance polices, particularly those with a savings component.

The PRC government and securities market development

To help regulate these fledgling markets, China passed its first securities law in December 1998, after many years of effort and more than 13 drafts. The Securities Law of the People's Republic of China, which took effect on July 1, 1999, lays down formal regulations for most of the operations of China's initial public offerings (IPOs), secondary market trading practices, financial information disclosure requirements of listed companies, and rules for securities trading service organizations.

The government has played a significant role in recent market developments:

- **The IPO process**

The IPO process has been changing from one of government quotas to one increasingly determined by market forces. Though the IPO market has slowed considerably since 2001 and is still not entirely market driven, various government agencies, such as the China Securities Regulatory Commission (CSRC), now give more consideration to economic rather than political criteria in deciding which companies may list. Chinese companies' demand for IPO listings is high and exceeds the number of listings that are approved.

- **Second board**

In 2000, the Chinese government floated a plan to establish a second board—a Nasdaq-style exchange for high-technology firms—to fund China's small and medium-sized enterprises (SMEs). China currently has 10 million SMEs that are mostly privately owned and in great need of long-term capital. A large number of these SMEs perform well financially and provide desperately needed employment opportunities. Indeed, SMEs are widely hailed as the most dynamic and fastest-growing actors in China's economy.

A host of problems have slowed the development of the market—from a weak legal structure and poor enforcement to heavy government interference in market operations, particularly decisions over which companies may list on China's exchanges.

Government officials proposed that the second board would be located in Shenzhen and would have less-restrictive requirements than the A-share markets in Shanghai and Shenzhen. In expectation of the second board opening, government regulators suspended new A-share IPO listings in 2001 and proposed merging the Shenzhen and Shanghai securities markets.

In the middle of 2001, however, the government became worried about the risks of opening a second board and shelved its plan, for various reasons. First, the PRC government appeared to become alarmed about the financial prospects of high-technology companies after the global high-technology bubble burst and the Hong Kong Growth Enterprise Market suffered major declines. Officials were also concerned about any negative impact that an unsuccessful second board could have on China's main markets. And the government feared that Shenzhen's economy, in particular, would suffer if the Shenzhen and Shanghai exchanges were merged without the creation of a second board. Finally, government officials began to doubt the financial strength of new companies given their lack of long-term operational experience or demonstrated track-records of profitability.

- **Foreign participation**

With China's entry into the World Trade Organization (WTO), the PRC government discussed

In early November 2002, CSRC and the People's Bank of China released a rule that begins the process of opening up the country's RMB-denominated A-share market to foreign investors.

the possibility of permitting the floating of foreign-invested companies. This step has not yet been taken—foreign-invested companies do not need the capital badly and are not anxious to give up management control in exchange for modest capital from share flotation.

In early November 2002, CSRC and the People's Bank of China released a rule that begins the process of opening up the country's RMB-denominated A-share market to foreign investors. The Provisional Rule on the Management of Investment in Domestic Securities by Qualified Foreign Institutional Investors (QFIIs), which took effect December 1, 2002, allows foreign financial entities to invest via domestic trustees in A shares and to repatriate profits and principal, with some restrictions.

Outside expertise

The PRC government has recruited outside expertise to help upgrade and strengthen China's securities market and to bring internationally accepted practices into CSRC and market operations generally. The first outside expert hired to upgrade China's markets was Anthony Neoh, a former chair of the Hong Kong Securities and Futures Commission (HKSFC) and a practicing lawyer in Hong Kong. In late 1998, Premier Zhu Rongji asked him to serve as the chief adviser to the CSRC. Neoh has tried to help China's securities market make various structural changes to improve its integrity and professional ability, qualities that he reportedly believes form the foundation for an efficient and reputable market.

Neoh proposed various reforms, such as providing SOE managers with stock options and linking pay with performance. He emphasized the importance of developing institutional capacity, via civil, criminal, and administrative measures, to enforce rules against false disclosure of information and insider trading.

Another outsider China hired was Laura Cha, a highly respected, US-trained lawyer with legal experience in both the United States and Hong Kong, and management responsibility in Hong Kong as the HKSFC vice chair and president of operations. She was hired in March 2001 as CSRC vice chair—a position equivalent to that of a vice minister. She holds the highest position in the Chinese government for a non-Chinese citizen (though born in Shanghai and raised in the United States, Cha is a Hong Kong citizen).

Cha is responsible for a number of reform and supervisory initiatives that have helped move China's securities markets toward accepted world practices. In public statements she has rejected the notion that there are "Chinese characteristics" to China's markets, instead arguing that for China to have an efficient securities market, it must meet universal principles and international standards—which she defines as fairness, openness, and equitability.

Since the hiring of Neoh and Cha, the PRC government has begun to step up financial supervision and crack down on illegal trading in the secondary markets. Measures have included the appointment of at least three independent directors on the boards of listed companies; the requirement that listed companies present quarterly financial reports to CSRC; the delisting of companies for poor financial performance; and more aggressive enforcement of rules and laws and more recourse to the legal system (*see The CBR*, September-October 2002, p.34).

Some blame the Chinese stock market's recent fall on the aggressiveness of Cha's initiatives. She has responded that her reforms have only highlighted existing problems and are the first step toward solving them.

Increased supervision and legal activities

In China's first criminal case in the sector, CSRC brought criminal charges against seven individuals, alleging that they had manipulated the stock of the Shenzhen-listed China Venture Capital Group Co., Ltd. From December 1998 to January 2001, they allegedly raised ¥5.4 billion ($652.17 million) to gain control of 55 percent of the company's circulating shares and then traded these shares among themselves through 1,500 fictitious stock accounts to create a false impression of active trading (*see The CBR*, September-October 2002, p.40). They were able to boost the value of the circulated shares from ¥1 billion ($120.8 million) to ¥6.2 billion ($749.1 million) before selling their shares for a large, illegal, profit. The case involved more than 100 businesses and individuals and over 120 securities trading firm offices in more than 20 provinces across China. Behind the 120 trading firm offices were 66 securities brokerage and investment trust companies. The case was still pending as *The CBR* went to press.

Number of Listed Companies on the Shanghai and Shenzhen Stock Exchanges

Year	Shanghai	Shenzhen	Total
1990	8	6	14
1991	8	6	14
1992	30	23	53
1993	106	77	183
1994	171	120	291
1995	188	135	323
1996	293	237	530
1997	383	362	745
1998	434	417	851
1999	484	463	947
2000	572	516	1,088
2001	646	514	1,160

SOURCE: Ji Chen and Stephen C. Thomas

Expanding role of investment funds

China's investment fund sector was born more than four years ago, when the first closed-end fund was made available to Chinese investors. According to the *People's Daily*, by August 2, 2002 China had opened 16 fund-management companies, managing 57 different investment funds, with 52 closed-end, and five open-end, mutual funds. The funds under management totaled ¥94 billion ($12 billion). These funds currently account for about 6 percent of market capitalization of the Shanghai and Shenzhen markets. This level is very low compared with the United States, where 70 percent of market capitalization is channeled to investment funds.

Although investment funds are growing rapidly, the laws regulating investment fund companies are still in the drafting stage. Fund managers also are not yet under close Chinese government supervision.

Investment funds can play an important role as market stabilizers when they are sufficiently large and oriented toward long-term investing. But China's fund sector is still too small to have much of a stabilizing effect, although funds may play an increasingly important role over the next 10 years. Expansion will require investor education and the development of additional investment funds for bonds, real estate, or other specific sectors. When government social security funds and insurance premiums are finally invested in the securities market, they will stimulate additional growth.

Government policies and market swings

Before 1997, many stock price swings were caused in large part by changes in government policies. Since then, short-term market swings have also resulted from government policy changes, though officials have implemented many reforms that should strengthen China's markets in the long term. Some government policies have been designed to raise share prices, and strengthen the overall market, while others, perhaps inadvertently, have suppressed stock prices.

Policies that have helped raise share prices have included forbidding Chinese funds to be invested outside of China, lowering bank deposit interest rates to encourage alternate investments, imposing a tax of 20 percent on interest earned on bank deposits, reducing the stock transaction tax, and opening the B-share market to domestic investors who possess foreign exchange (*see* p.40).

The most striking case of policy affecting stock prices occurred in June 2001, when the PRC government proposed to sell state-owned shares to generate badly needed capital for China's social security system. The government was planning to require newly listed Chinese companies, in both the Chinese and international markets, to sell an additional 10 percent of state-owned shares during the IPO process. China's stock markets panicked at the possibility that the government would begin to sell off its previously non-tradable shares. Such sales would represent a major dilution of shareholder value. Share prices tumbled more than 30 percent over the next four months. By October 2001, soon after the government announced it would suspend this policy, the market bounced back 10 percent in a single day of heavy trading. Yet share prices resumed their downward fall until June 2002, when the government decided to scrap the 10 percent sale plan for domestic IPOs entirely. The market rose about 10 percent in one day and remained in a narrow trading range through late 2002.

Additional policy decisions may have had a dampening effect, such as the indefinite postponement of the opening of the second board and the rejection of financial criteria as the main requirement for the listing of IPOs.

The resources allocated to CSRC—which has only 40 staff dedicated to legal enforcement and supervision of 1,200 listed companies—are inadequate.

Critical problems

The PRC government has met its goal, to provide capital for the nation's companies, for only 1,200 out of the more than 10,000 SOEs identified by the government as worth saving. Of course, the fact that the government still has a hand in IPO selection undermines the independence of the market and stifles the growth of SMEs, which are starved for capital. Furthermore, China's legal framework for the securities industry contains significant gaps, especially in curbing market manipulation and protecting smaller investors' interests.

But a more difficult problem is enforcing the effective laws that do exist. The resources allocated to CSRC—which has only 40 staff dedicated to legal enforcement and supervision of 1,200 listed companies—are inadequate. And there are inherent problems with corporate governance of the large, listed SOEs: because government and quasi-government institutions own the bulk of listed company shares, managers of the listed companies cannot be made responsible to small individual investors or sometimes even to government regulators.

Moreover, proceeds from stock listings have often been used for purposes other than those listed in the stock prospectuses, usually to loan to their parent company, to speculate in the market, or to make other investments such as lending in the black market or investing in real estate.

The role of foreign firms and the WTO

In the short term, the Chinese securities market has little potential for foreign investors. A shares remain unavailable to foreign investors, though new rules will permit some QFIIs to own

As foreign participation in the running of these firms expands, Chinese financial services companies will gain exposure to internationally accepted practices and standards.

A shares. The B-share market remains so small and illiquid that it is unappealing to most would-be foreign investors.

In the long-term, however, China's securities market has much potential, as it catches up with the other areas of China's economy that have been extremely successful. In most countries with a developed securities market, market capitalization is usually more than 100 percent of GDP—in the United States it is about 150 percent of GDP. In China, the figure is still only about 50 percent.

The PRC government now needs to concentrate on solving existing market problems to restore Chinese investor confidence. Without a sound and efficient capital market, China's economic progress may be threatened.

A healthy financial market is also vital for China's success in the WTO. Although its WTO commitments do not directly commit China to major changes in its securities market structure, the market will suffer many indirect consequences of WTO entry. First, foreign financial institutions are now allowed to purchase a 33 percent stake in domestic Chinese fund-management companies, increasing to 49 percent within three years. Foreign investment bankers will be allowed to form joint ventures with Chinese investment banking firms and to have up to 33 percent ownership within three years of WTO entry. Rules issued by the Shanghai and Shenzhen exchanges in summer 2001 allow foreign-invested securities firms to underwrite and broker B shares, and to underwrite A shares. (Interestingly, these rules accelerate China's WTO commitments in this area by two-and-a-half years.) And foreign securities companies' representative offices in China may become special members of China's stock exchanges.

As foreign participation in the running of these firms expands, Chinese financial services companies will gain exposure to internationally accepted practices and standards. IPO quality may improve and secondary market trading practices may become more transparent and efficient.

For their part, foreign investors should have more confidence and interest in China's stock markets. China's latest move to open the A-share market to foreigners by inviting qualified foreign investment institutions to invest limited amounts of foreign currency in China's A-share market is a small step toward the ultimate goal: foreign exchange convertibility in China's capital account.

In the short term, foreign investors may want to take a wait-and-see attitude to China's securities market. Others, particularly foreign financial services firms, may choose to forge ahead, ideally playing a vital and active role in China's securities market development. 完

B-Share Woes

The original goal of the B-share market was to attract foreign investors, but currently about 70 percent of B-share investors are overseas or domestic Chinese. Chinese domestic demand for B shares is largely due to the fact that Chinese citizens hold about $75 billion in savings and Chinese institutions have saved about $48 billion—and both groups are now investing in B shares.

China's small B-share market expanded from 85 listed companies in 1996 (43 in Shenzhen and 42 in Shanghai) to a total of 114 in 2002 (57 in Shanghai and 57 in Shenzhen). B shares accounted for about 5 percent of the tradable capitalization of the A-share market, until Chinese investors with foreign exchange were finally permitted to invest on February 20, 2001. This move propelled the Shanghai B-share index from 78 to a high of 239 in May 2001. Shares have since dropped back to a trading range of about 160 as of late 2002, still more than double their previous levels. But because China's currency is still not convertible on the capital account, A- and B-share markets have remained separate. Although A and B shares represent equal company ownership, the prices of B shares are still far below those of A shares.

Recently the government has begun a modest expansion of the B-share market by allowing private companies to issue B shares. In August 2000, Hebei Dixian Knitwear became the first private company to list on the B-share market in Shenzhen.

—Ji Chen and Stephen C. Thomas

Advertisers in this Issue

Council Bulletin

Event Wrap-Up

Upcoming Events

MARK YOUR CALENDAR!

Forecast 2003
Reception
February 12, 2003
Conference
February 13, 2003
For more information, see p. 43

February Issues Luncheon
February 20, 2002
Washington, DC

Washington

November

Issues Luncheon: China's Economic Policy Challenges Post WTO-Accession: Key Considerations for US Business Featured Dr. Charles Pigott, senior economist, Non-Member Economies Division, Economics Department, Organization for Economic Cooperation and Development, and Dr. Albert Keidel, acting director for East Asian nations, US Department of the Treasury

December

US-China Legal Exchange Seminar: "The Legal Impact of China's WTO Accession" The US Department of Commerce and MOFTEC in conjunction with The US-China Business Council; The China Law Committee Section on International Law & Practice American Bar Association; and The Maryland-China Business Council presened a seminar featuring MOFTEC Vice Minister Long Yongtu, MOFTEC Treaties and Laws Department Director Li Ling, and other officials.

January

January Issues Luncheon
January 16, 2002
Washington, DC

New York

December

Seminar: Developments in Chinese Economic and Commercial Law Featured MOFTEC Vice Minister Long Yongtu and MOFTEC Treaties and Laws Department Director Li Ling.

China Joins the Trade Wars

Continued from page 29

Throwing stones in the WTO's glass house

Some of the judgments here may appear harsh—China's trade investigations often fall short of WTO procedural standards; some of the substantive decisions appear unjustified by the evidence; China's government agencies may have serious conflicts of interest in conducting trade investigations.

But few of these criticisms of China cannot also be made, in one degree or another, of other WTO members. If China's steel safeguard measures appear suspect in many respects, it is well to remember that they were precipitated by equally questionable measures adopted by the United States. If China's antidumping investigations often seem influenced by China's political and economic interests, the same has been true of US and EU investigations. If domestic Chinese industries petition for trade remedy relief that seems patently unjustified under WTO standards, industries in other countries make similar demands of their governments.

The fact is that major trade disputes are highly political. They are political domestically in that the fate of entire industries may turn on the outcomes. They are political internationally because they involve important economic interests of different countries. The structure of the WTO dispute resolution system, moreover, reinforces politicians' natural instinct to favor domestic political interests. It is only natural for a politician to satisfy domestic political pressures today and not worry about losing a WTO dispute 18 months from now, when the problem can be blamed on a faraway international tribunal. If China's leaders sometimes yield to that temptation, they will be in good company.

The world's major trading nations, including China, have, however, agreed that their mutual interests are served by the complex agreements that make up the WTO system. If their political interests sometimes cause WTO members, including China, to deviate from those agreements, other political interests will also give them the right to object to such deviations. These trade battles are ultimately political, and many will be resolved only on political terms. But the rules of battle are formulated in legal terms, and the battles will, therefore, be fought in legal terms. China will continue to be one of the most prominent protagonists in these battles. 完

美中贸易全国委员会

THE US-CHINA BUSINESS COUNCIL

FORECAST 2003

A PRACTICAL OVERVIEW OF BUSINESS, ECONOMIC, AND POLITICAL TRENDS IN CHINA

A MEMBERS-ONLY EVENT

WASHINGTON RECEPTION
Wednesday, February 12, 6:00-8:00 pm

CONFERENCE
Thursday, February 13
8:30 am-4:00 pm

COMPANY STRATEGY SESSIONS
4:00-5:30 pm

Location: The St. Regis Hotel, 923 16th Street, NW, Washington, DC

POLITICAL AND ECONOMIC MACRO-TRENDS

POLITICAL CHANGE IN CHINA: WHO'S UP, WHO'S DOWN—AND DOES IT MATTER?
H. Lyman Miller, Research Fellow, Hoover Institution, and Associate Professor, US Naval Postgraduate School
Robert G. Sutter, Visiting Professor, Georgetown University

CHINA'S ECONOMY IN 2003
Stephen Roach, Chief Economist, Morgan Stanley
Carla A. Hills, Chair and Chief Executive Officer, Hills & Company

CHINA'S TRADE STRATEGY AND SHIFTING REGIONAL AND GLOBAL PATTERNS
Patrick Norton, Partner, O'Melveny and Myers LLP

US-CHINA RELATIONS: PROSPECTS FOR PROGRESS IN 2003

Luncheon Keynote
H.E. Yang Jiechi, Ambassador of the People's Republic of China to the United States

MARKET OPERATIONS: THE BUSINESS CLIMATE IN CHINA

WHAT TO EXPECT IN 2003

Patrick J. Powers, Director, China Operations, The US-China Business Council

OPPORTUNITIES AND CHALLENGES IN CHINA'S ENERGY SECTOR
Mitchell A. Silk, Partner, Allen & Overy

SERVICES—THE NEXT FRONTIER
David Weller, Assistant General Counsel, Office of the United States Trade Representative

INDIVIDUAL COMPANY STRATEGY SESSIONS WITH COUNCIL STAFF

(By Appointment)

Registration fees by Tuesday, January 14: $375 entire program—reception, conference, written reports, and luncheon; $75 evening reception only; $100 luncheon only.

Registration fees after January 14: $450 entire program; $100 evening reception only; $150 luncheon only.

Hotel Accommodations for Wednesday, February 12
Please call The St. Regis (www.stregis.com) at 800-562-5661 or 202-879-6911 for reservations at a special group rate: $199 single/double + tax. Indicate you are with The US-China Business Council's meeting group. **The cut-off date for this rate is Monday, January 20, 2003.** All reservations must be guaranteed with a major credit card or accompanied by a first night room deposit.

For more information, or to register, see: http://www.uschina.org/members/events/2003/02/forecast2003.html
Contact: Gloria González-Micklin, Director of Programs, (ggonzalezmicklin@uschina.org)
Tel: 202-429-0340, Fax: 202-775-2476

China Business

Sales and Investment

SEPTEMBER 16 – NOVEMBER 15, 2002

Compiled by Rebecca Karnak

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.

Accounting and Insurance

INVESTMENTS IN CHINA

CNP Assurances SA (France)
Will form insurance joint venture with China's State Postal Bureau. 10/02.

HSBC Holdings plc (UK)
Will buy 10% stake in China Ping'an Insurance Co. (Guangdong). 10/02.

CIGNA Corp. (US)/China Merchants Group (Hong Kong)
Will form joint venture life insurance company in Shenzhen. 09/02.

OTHER

China Everbright Ltd. (Beijing)
Withdrew from life insurance joint venture with Standard Life Assurance Co. (UK). 10/02.

Manulife Financial Corp. (Canada)/Sinochem
Won approval to open joint venture branch office, Manulife-Sinochem Life Insurance Co., in Guangzhou. 10/02.

Advertising and Public Relations

INVESTMENTS IN CHINA

Tom.com Ltd. (Hong Kong)/The Popular Computer Group (Beijing)
Will form joint venture to operate local and overseas distribution and advertising business for several publications. (Hong Kong:49%-PRC:51%). 09/02.

Agricultural Commodities and Technology

CHINA'S EXPORTS

Jilin Grain Group Co., Ltd.
Signed contract to sell 20,000 tons of corn to Taiwan. 11/02.

Abbreviations used throughout text: ABC: Agricultural Bank of China; ADB: Asian Development Bank; ASEAN: Association of Southeast Asian Nations; AVIC I and II: China Aviation Industry Corp. I and II; BOC: Bank of China; CAAC: General Administration of Civil Aviation of China; CATV: cable television; CCB: China Construction Bank; CCTV: China Central Television; CDB: China Development Bank; CDMA: code division multiple access; CEIEC: China National Electronics Import and Export Corp.; China Mobile: China Mobile Communications Corp.; China Netcom: China Netcom Corp. Ltd.; China Railcom: China Railway Communications Co., Ltd.; China Telecom: China Telecommunications Group Corp.; China Unicom: China United Telecommunications Corp.; CIRC: China Insurance Regulatory Commission; CITIC: China International Trust and Investment Corp.; CITS: China International Travel Service; CNOOC: China National Offshore Oil Corp.; CNPC: China National Petroleum & Gas Corp.; COSCO: China Ocean Shipping Co.; CSRC: China Securities Regulatory Commission; ETDZ: economic and technological development zone; ICBC: Industrial and Commercial Bank of China; MII: Ministry of Information Industry; MOFTEC: Ministry of Foreign Trade and Economic Cooperation; MOU: memorandum of understanding; NA: Not Available; NORINCO: China North Industries Corp.; P&T: Post and Telecommunications; PBOC: People's Bank of China; PetroChina: PetroChina Co., Ltd.; RMB: Renminbi; SARFT: State Administration of Radio, Film, and Television; SEZ: Special Economic Zone; SINOCHEM: China National Chemicals Import-Export Corp.; SINOPEC: China National Petrochemical Corp.; SINOTRANS: China National Foreign Trade Transportation Corp.; SDPC: State Development Planning Commission; UNDP: United Nations Development Program; WFOE: Wholly foreign-owned enterprise

Banking and Finance

INVESTMENTS IN CHINA

Allianz AG (Germany)/Guotai Junan Securites (Hong Kong) Ltd.
Will form joint venture fund-management company. (Germany:33%-PRC:67%). $12 million. 10/02.

Newbridge Capital Ltd. (US)
Will buy a share in Shenzhen Development Bank of Guangdong. 09/02.

OUB Venture Management Shanghai, a subsidiary of United Overseas Bank Ltd. (Singapore)/Oxford Cambridge Investment Group (Beijing), Shandong Hi-Tech Investment Co.
Will set up investment company in Beijing. $7.2 million. 09/02.

OTHER

Electronic Data Systems Corp. (US)
Signed agreement with BOC Credit Card (International) Ltd., a subsidiary of Bank of China (Hong Kong) Ltd., to transform credit processing operations. 10/02.

Hang Seng Bank Ltd. (Hong Kong)
Won approval to offer e-banking services at its mainland branches. 10/02.

HSBC Holdings plc (UK)
Won approval to offer e-banking services at its mainland branches. 10/02.

Invesco Funds Group, Inc. (US)
Severed relationship with Penghua Fund Management of Shenzhen. 10/02.

Invesco Funds Group, Inc. (US)
Received preliminary approval from CSRC for joint venture, Invesco Great Wall, with Great Wall Securities Co., Ltd. of Shenzhen. (US:33%-PRC:67%). $12 million. 10/02.

JAFCO Investment (Hong Kong) Ltd., a subsidiary of JAFCO Co., Ltd. (Japan)
Will open a representative office in Zhongguancun in Beijing. 10/02.

Government of Malaysia
Signed currency swap with China as part of the Chiang Mai Initiative to create a network of central bank currency swaps among the 10 ASEAN countries and China, Japan, and South Korea. $1.5 billion. 10/02.

SE Global Equities Corp., a subsidiary of Capital Alliance Group Inc. (US)
Signed MOU to set up a Shanghai-based subsidiary, SE Global Capital (China) Inc., with undisclosed Chinese partner. 10/02.

Sumitomo Trust and Banking Co., Ltd. (Japan)
Signed agreement with BOC to provide RMB loans to Japanese companies operating in China. 09/02.

Chemicals, Petrochemicals, and Related Equipment

INVESTMENTS IN CHINA

BASF AG (Germany), Huntsman Chemical Corp. (US)/Shanghai Chlor Alkali Chemical Co., Ltd., Shanghai Gaoqiao Petrochemical Co., Shanghai Huayi (Group) Co., Sinopec
Will form joint venture to build and operate a chemical plant near Shanghai. (Germany, US:70%-PRC:30%). $1.12 billion. 10/02.

DSM Fibre Intermediates (the Netherlands)/Sinopec Nanjing Chemical Industries Co., Ltd. (Jiangsu)
Will form joint venture, DSM Nanjing Chemical Co. (Netherlands:60%-PRC:40%). 10/02.

OTHER

Perlos Oyj (Finland)
Signed letter of intent to purchase Ace Mold Co. Ltd. and Ace Plastics Ltd. of Hong Kong and their manufacturing operations in China. $45 million. 11/02.

Consumer Goods

INVESTMENTS IN CHINA

Shensegae Co. (South Korea)
Will form joint venture discount chain store with unidentified Chinese partner. 10/02.

Wal-Mart Stores, Inc. (US)/CITIC
Signed joint venture agreement to form the East China Wal-Mart Stores Co. 10/02.

China Resources Enterprise, Ltd. (Hong Kong)
Will purchase 39.25% stake in Suguo Supermarket Co., Ltd. of Jiangsu. $28 million. 09/02.

CHINA'S INVESTMENTS ABROAD

Moltech Power Systems, Inc., a subsidiary of Moltech Corp. (US)
Sold all assets to Shanghai based Huayi Group. $20 million. 10/02.

OTHER

Carrefour SA (France)
Signed agreement of intent to buy Tianjin Quanyechang (Group) Co., Ltd. 10/02.

The Home Depot, Inc. (US)
Will open two sourcing offices in Shanghai and Shenzhen. 10/02.

Amway China Corp. (US)
Opened its first store in Urumqi, Xinjiang. 09/02.

China Resources Construction, a subsidiary of China Resources Enterprise (Hong Kong)/China Vanguard Super Department Co., a partially owned subsidiary of China Resources Enterprise (Guangdong)
Will build a logistics center in Shenzhen and a shop in Guangzhou. 09/02.

CTA Makro, a joint venture of SHV Holdings NV (the Netherlands)
Will open stores in Tianjin; Shijiazhuang, Hebei; and Shenyang, Liaoning, in 2003. 09/02.

Electronics and Computer Software

CHINA'S IMPORTS

Hynix Semiconductor, Inc. (South Korea)
Will sell its TFT-LCD panel unit to BOE Technology Group Co., Ltd. (Shenzhen). $380 million. 10/02.

INVESTMENTS IN CHINA

Anoto Group AB (Sweden)/CNUC Unicom Group (Beijing), Tong Fang Group (Beijing)
Will form joint venture to develop service for transmitting notes taken with a computerized pen over wireless phone systems. $24 million. 11/02.

Advanced Micro Devices, Inc. (US)/China Basic Education Software Co., Ltd. (Beijing)
Will form research and development joint venture, Beijing CBE AMD Information Technology Co. Ltd. 10/02.

NEC Soft Ltd., a subsidiary of NEC Corp. (Japan)
Purchased 6% stake in SinoCom, a Beijing software developer. $1.5 million. 10/02.

Silicon Tech Ltd. (South Korea)/Tec-Hill Group Ltd. (Hong Kong)
Will build an integrated circuit production plant in Shenyang, Liaoning. (South Korea:20%-Hong Kong:80%). $300 million. 10/02.

OTHER

OPTX International (US)
Signed reseller agreement with Golden Tech Group of Beijing for ScreenWatch Producer 5.0 software. 10/02.

Summit Design, Inc. (US)
Will expand sales in China through partner, One Pass Solutions, Ltd., of Beijing. 10/02.

Tengtu International Corp. (Canada)/Sina.com (Hong Kong)
Signed agreement to develop the management platform for China's education portal. 10/02.

IBM Corp. (US)
Opened branch office in Kunming, Yunnan. 09/02.

Engineering and Construction

CHINA'S IMPORTS

Axens North America, Inc. (US)
Signed contract for basic engineering design and technical services for Shenhua Group Corp., Ltd.'s coal liquefication project in Inner Mongolia. 10/02.

JGC Corp. (Japan)
Won contract to construct an ethylene oxide and ethylene glycol plant from BASF-YPC Co. of Jiangsu, a Sino-German joint venture between BASF AG and Sinopec. 10/02.

INVESTMENTS IN CHINA

Mitsubishi Corp., Nippon Steel Corp., Toyota Motor Corp. (Japan)/Beijing New Building Materials Group Ltd.
Set up steel-supply joint venture. (Japan:25%-PRC:75%). $24 million. 10/02.

OTHER

Isotec, a subsidiary of World-Am Communications, Inc. (US)/Comfort Virtue Construction Product Co., Ltd. (Beijing)
Signed MOU to develop security portals and to establish a joint venture manufacturing company. 11/02.

Voltas Ltd., a member of the Tata Group Co. (India)
Will set up a subsidiary for sourcing and exports. 11/02.

Environmental Technology and Equipment

OTHER

Berlin Water (Germany)
Began construction on sewage plant in eastern Jiangxi in cooperation with Shanghai Environmental Protection Group. 10/02.

Food and Food Processing

INVESTMENTS IN CHINA

Interbrew SA (Belgium)
Will buy 70% stake in K.K. Brewery of Zhejiang. $42 million. 11/02.

Alami Vegetable Oil Products Sdn. Bhd. (Malaysia)
Will set up palm oil processing plant in Xi'an, Shaanxi. (Malaysia:70%-PRC:30%). $8.5 million. 10/02.

DuPont Agriculture & Nutrition (US)/Shineway Industry Group Co., Ltd. (Henan)
Formed joint venture, DuPont Shineway Group, to produce soy protein. $60.5 million. 10/02.

OTHER

Anheuser-Busch Co., Inc. (US)
Will increase its stake in Tsingtao Brewery Co., Ltd. from 4.5% to 27%. 10/02.

Starbucks Coffee International (US)
Opened its first store in Shenzhen. 10/02.

Machinery and Machine Tools

INVESTMENTS IN CHINA

Regal-Beloit Corp. (US)/Shanghai Jinling Co., Ltd.
Formed joint venture, Shanghai Micro Motor, to make small electric motors. (US:50%-PRC:50%). 11/02.

OTHER

Ferro Corp. (US)
Sold plant in Ningbo, Zhejiang, to Akzo Nobel NV (the Netherlands). 10/02.

Medical Equipment and Devices

CHINA'S INVESTMENTS ABROAD

Shenzhen New Industries Medical Development Co., Ltd. (Guangdong)
Bought $2 million equity stake in LaserSight Inc. (US). 09/02.

Metals, Minerals, and Mining

INVESTMENTS IN CHINA

Kobe Steel Ltd., Matsushita Industrial Equipment Co. (Japan), a unit of Kobe Steel Ltd./Tangshan Kaiyuan Electric Co. (Hebei)
Will form joint venture, Kobe Welding of Tangshan Co., in Hebei to manufacture and sell welding materials. (Japan:77%-PRC:23%). 10/02.

POSCO (South Korea)/Qingdao Iron & Steel Group (Shandong)
Will form joint venture, Qingdao Pohang Stainless Steel Co. $48 million. 09/02.

OTHER

China Steel Aluminum Corp., a unit of China Steel Corp. (Taiwan)
Won approval for a manufacturing joint venture in Ningbo, Zhejiang. 10/02.

Southwestern Resources Corp. (Canada)/Team 209 of Yunnan Nuclear Industry
Will begin first phase of diamond drilling program through their joint venture, Boka Gold Project. 10/02.

Miscellaneous

INVESTMENTS IN CHINA

Korn/Ferry International (US)/China International Economic Consultants Co., Ltd. (Beijing), part of CITIC.
Will form global recruiting joint venture. 10/02.

OTHER

French Academy of Sciences, French Academy of Medical Research
Will develop the Sino-French Life Sciences Research Centre in Shanghai, together with three Chinese research institutes and one other French institute. 10/02.

Memphis Zoo (US)
Will lease two pandas for 10 years from China. $28 million. 10/02.

Universal Studios (US)/Beijing Tourism Group
Signed MOU to build a theme park in Beijing. $900 million. 10/02.

Allen & Overy (UK)
Appointed by the Beijing Municipal Development and Planning Commission to advise on building of Olympic facilities. 09/02.

Petroleum, Natural Gas, and Related Equipment

CHINA'S IMPORTS

BP plc (UK), Perusahaan Pertambangan Minyak Dan Gas Bumi Negara (Indonesia)
Will supply 2.5 million tons of gas each year to CNOOC starting in 2007. $8.5 billion. 09/02.

CHINA'S INVESTMENTS ABROAD

CNOOC
Will acquire up to 5.56% of Australia's North West Shelf Gas Project. $320 million. 10/02.

Sonatrach (Algeria)/Sinopec
Will explore Zarzaitine oil field in the eastern Sahara desert. (Algeria:25%-PRC:75%). $525 million. 10/02.

CNOOC Ltd.
Will purchase 12.5% equity in BP plc (UK) gas project in eastern Indonesia. 09/02.

INVESTMENTS IN CHINA

Exxon Mobil Corp. (US), Saudi Arabian Oil Co. (Saudi Arabia)/Fujian Petrochemical Co. Ltd., a joint venture between Sinopec and the Fujian provincial government
Will set up joint venture refining and petrochemical projects in Fujian and Guangdong. (Saudi Arabia:25%,US:25%-PRC:50%). $3.3 billion. 10/02.

Ivanhoe Energy Inc. (Canada)/CITIC
Formed joint venture to develop oil and gas resources. 10/02.

Texaco China, a subsidiary of ChevronTexaco Corp. (US)/CNOOC
Will jointly develop an oilfield in Bohai Bay in Tianjin. (US:16.2%-PRC:83.8%). 10/02.

Hong Kong and China Gas Co. Ltd. (Towngas)/Nanjing General Gas Co. (Jiangsu)
Will set up joint venture in Jiangsu. (Hong Kong:50%-PRC:50%). $145 million. 09/02.

Sunwing Energy and Pan-China Resources, subsidiaries of Ivanhoe Energy Inc. (Canada)/PetroChina (Beijing), a subsidiary of China National Petroleum Corp.
Will form joint venture to explore gas fields in Sichuan. 09/02.

OTHER

Exxon Mobil Corp. (US)/Sinopec
Signed framework agreement for refining, petrochemical, and fuels marketing joint venture projects in Fujian and Guangdong. 10/02.

Ports and Shipping

CHINA'S EXPORTS

Shanghai Zhenhua Port Machinery Co.
Won order from 10 large container cranes from Société d'Equipment du Terminal de L'Ocean of France. $68.4 million. 09/02.

CHINA'S IMPORTS

Wärtsilä Corp. (Finland)
Signed agreement with Shanghai Edward Shipbuilding Co., Ltd. to supply propulsion systems for five chemical tankers. $11.7 million. 09/02.

INVESTMENTS IN CHINA

China Merchants Holdings International Co. (Hong Kong)
Will set up three joint ventures with Shenzhen Chiwan Wharf Holdings Ltd. and Shenzhen Nanyou Group to operate five berths in Shenzhen's Mawan port. 10/02.

Grupo Dragados SA (Spain), Golden State Group Corp. (US)
Will set up joint venture, the Dragados Joint Venture, to operate a container terminal at the Jingtang port in Hebei for 50 years. $27.3 million. 10/02.

AP Moller (Denmark)
Established joint venture, Shanghai Hudong Container Terminal Management Co. Ltd., with Shanghai Port Authority. (Denmark:49%-PRC:51%). $1.8 million. 09/02.

Property Management and Development

OTHER

Goldwiz Holdings Ltd. (Hong Kong)
Bought Risdon Ltd., owner of Harbour Plaza Kunming Hotel, from Hutchison Whampoa Ltd. of Hong Kong. $40.5 million. 11/02.

Oakwood Worldwide (US)
Will manage an apartment complex in Beijing, under contract to Eternal Real Estate Development Co., a subsidiary of Eternal Unity Holdings Ltd. (Hong Kong). 10/02.

Telecommunications

CHINA'S IMPORTS

LM Ericsson AB (Sweden)
Will upgrade existing networks for China Unicom. $150 million. 10/02.

LM Ericsson AB (Sweden)
Expanded contract to sell more handset technology to TCL Mobile Communication Co., Ltd. of Guangdong. 10/02.

Lucent Technologies (US)
Will supply CDMA network equipment and services to China Unicom. $406 million. 10/02.

Motorola Inc. (US)
Will expand and upgrade networks for China Mobile. $68 million. 10/02.

Motorola Inc. (US)
Will supply CDMA network equipment and services to China Unicom. $444 million. 10/02.

Oy Nokia AB (Finland)
Will supply broadband DSL equipment to Fuzhou Telecom, a subsidiary of China Telecom, in Fujian. 10/02.

Nortel Networks Corp. (Canada)
Signed agreements with China Telecom and China Netcom to supply broadband service nodes in Hubei and Heilongjiang. 10/02.

Nortel Networks Corp. (Canada)
Will supply network infrastructure equipment to China Unicom. $280 million. 10/02.

NSI Global Inc. (Canada)
Won contract to provide Very Small Aperture Terminal network in Shandong. $108,000. 10/02.

SK Telecom Co., Ltd. (South Korea)
Signed MOU to provide one million CDMA handsets to China Unicom. 10/02.

UTStarcom, Inc. (US)
Won contracts to expand China Telecom network in Zhejiang. $22.7 million. 10/02.

Wide Telecom Inc., a South Korean joint venture with Cal-Comp Electronics (Thailand) Public Co., Ltd.
Will produce 150,000 CDMA phones for Hisense Group Mobile Communications of Qingdao, Shandong, and TCL Mobile Communications of Guangdong. 10/02.

Alcatel SA (France)
Won contract from China Telecom for the Inter-Carrier Settlement System (ICSS) in Yunnan. 09/02.

Alcatel Space, a subsidiary of Alcatel SA (France)
Signed contract with China Academy of Space Technology for the development and construction of a new telecommunications satellite. 09/02.

Netro Corp. (US)
Won mobile infrastructure account and will sell its product through Eastern Communications Co. Ltd. of Zhejiang. 09/02.

Nortel Networks Corp. (Canada)
Won contract to help China Unicom expand its networks in Chongqing, Ningxia, Shanxi, and Xinjiang. $40 million. 09/02.

INVESTMENTS IN CHINA

Loral CyberStar, Inc. (US)
Will invest $115.1 million to develop Chinese satellite with APT Satellite Holdings Ltd. of Hong Kong. 09/02.

SK Telecom Co., Ltd., a subsidiary of SK Group (South Korea)/China Unicom
Will set up Internet joint venture. 09/02.

OTHER

China Netcom
Acquired international telecom business license in the United States. 10/02.

Novra Technologies Inc. (Canada)/Beijing CPT Co., Ltd.
Signed reseller agreement. 10/02.

MII
Signed MOU with Egypt on promoting trade and investment in telecommunications network infrastructure. 10/02.

China Netcom
Acquired Asia Global Crossing Ltd. of the United States. 09/02.

Textiles and Apparel

OTHER

Benetton Group SpA (Italy)
Opened megastore in Shanghai. 10/02.

Transportation

CHINA'S EXPORTS

Shenyang Aircraft Corp., Xi'an Aircraft Co., units of AVIC I
Won contract from Airbus SAS (France) to supply parts for the single-aisle A320 aircraft. $169 million. 11/02.

Chengdu Aircraft Industry Co. (Sichuan)
Began production of FC-1 multipurpose fighter jets for sale to Pakistan. 10/02.

CHINA'S IMPORTS

Cummins Westport Inc., a joint venture of Cummins Inc. (US) and Westport Innovations Inc. (Canada)
Will supply natural-gas bus engines to Xining Transit Co. (Qinghai). 11/02.

Hitachi Ltd. and Mitsui & Co., Ltd. (Japan)
Will provide technology and equipment for 84 railcars for the Chongqing light rail system for Changchun Railcar Co. of Jilin. $71 million. 11/02.

Union Switch & Signal Inc. (US)
Signed contract with Beijing Hua-Tie Information Technology Development Co. to supply an automatic train control system to Tianjin. $26 million. 10/02.

Greyhound Canada Transportation Co., a unit of Laidlaw, Inc.
Will supply ticket selling system and security management network to New National Express Group Co. Ltd. 10/02.

CHINA'S INVESTMENTS ABROAD

Shanghai Automotive Industry (Group) Corp.
Will buy 10% of GM Daewoo Auto and Technology Co., owned by General Motors Corp. (US) and Daewoo Motor Co., Ltd. (South Korea). $60 million. 10/02.

INVESTMENTS IN CHINA

CAE Inc. (Canada)/China Southern Airlines Co. (Guangdong)
Formed joint venture to provide aviation training for Asian carriers. (Canada:49%-PRC:51%). 11/02.

Isuzu Motors Ltd. (Japan)/Shanghai Automotive Industry (Group) Corp.
Will set up joint venture to produce large trucks. 11/02.

China Airlines (Taiwan)
Approved to invest in China Cargo, 70% owned by China Eastern Airlines (Shanghai). (Taiwan:25%-PRC:75%). $47 million. 10/02.

Daihatsu Motor Co., Ltd., subsidiary of Toyota Motor Corp. (Japan)/China FAW Group Corp. (Jilin)
Will set up joint venture to produce minicars and other vehicles. 10/02.

Faurecia SA (France)/GlaxoSmithKline plc (UK)
Will set up joint venture, Faurecia GSK Wuhan Autmotive Seating Co., in Hubei to produce automotive seating. (France:51%, UK:49%). 10/02.

Hyundai Motor Co. (South Korea)/Beijing Automotive Industry Holding Co., Ltd.
Will set up joint venture, Beijing Hyundai Motor. (South Korea:50%-PRC:50%). $100 million. 10/02.

Mando Machinery Corp. (South Korea)/Harbin Hafei Motor Co. (Heilongjiang)
Will set up joint venture to produce car parts. $85 million. 10/02.

PSA Peugeot Citroen SA (France)/Dongfeng Motor Corp. (Hubei)
Will buy a 36% stake from other shareholders of their joint venture in Hubei, giving each company a 50% stake. $277 million. 10/02.

Nissan Motor Co., Ltd. (Japan)/Dongfeng Motor Group, Corp. (Hubei)
Will form joint venture, Dongfeng Motor Corp., to make cars, trucks, and buses. (Japan:50%-PRC:50%). $1 billion. 09/02.

Rockwell Collins, Inc. (US)/China Eastern Airlines Corp., Ltd. (Shanghai)
Will set up joint venture to provide aviation electronics maintenance. (US:65%-PRC:35%). $14 million. 09/02.

OTHER

Bombardier Inc. (Canada)
Won contract from Shanghai Metro Operation Corp. for 10-year overhaul of 96 metro cars. 09/02.

Suzuki Motor Corp. (Japan)/Dachangjiang Motorcycle Co., Ltd. (Guangdong)
Set up research subsidiary. (Japan:60%-PRC:40%). $6.1 million. 09/02.

INDEX 2002

INDEX

LAST PAGE

Confessions of a Restaurant Snob

I've always looked forward to the meals on my visits to China. Not only am I a New Yorker now living in Washington, DC, but I am also a New Yorker with a parent in the New York food business—and thus an unapologetic snob when it comes to eating out. Washington may be the political capital of the United States, but no one comes to Washington for its cuisine (nor should they).

So it was with high expectations that I dragged a friend along to T8 in Shanghai, a restaurant that earned a place in *Condé Nast Traveler's* 2002 "Hot Tables" list of the top 50 "world's most exciting restaurants."

In many ways T8 deserves its place among its trendy New York counterparts. The restaurant is tucked away in a corner of Xintiandi, Shanghai's impressive contribution to urban nightlife. (As Shanghai locals no doubt tire of explaining, Xintiandi is a shopping and entertainment area crafted out of the buildings that, ironically, were the site of the first meeting of the Chinese Communist Party.)

The restaurant's design mixes Asian elements with those more typical of any hip, up-and-coming urban nightspot. Wooden latticed partitions dividing the eating area into intimate nooks contrast with a modern water fountain laid into slabs of slate flooring and a floor-to-ceiling glassed-in kitchen, with splashes of brightly lit tomatoes and carrots on display beside a white-uniformed sous-chef (cutting crusts off a rectangular apple or pear tart on my visit).

The menu also clearly mixed Asian and Western tastes. Pumpkin and tomato soup with spinach cream and parmesan. Scallops and sweetbreads with white truffles and chestnut dumplings. Oyster and leek pie, saffron butter, watercress salad. Duck egg yolk ravioli, with asparagus, Parma ham, and parmesan.

The dishes we eventually selected were tasty, though we stayed away from those adventurous combinations, and in some cases the different flavors worked well. The appetizer of Sichuan seared king prawns, octopus compote, and garlic cream was just what we thought it would be—the fish was fresh, cooked perfectly, and delicately seasoned. The caramelized salted salmon with green mango and longan salad with crisp shallot and salmon caviar) was excellent—the salty crust reminded me of the Chinese "salt-baked" cooking style, and the salad under the salmon was really more like a slaw of the fruit, shallots, and crisp red chilis.

For a main course, my friend ordered a somewhat bland asparagus risotto, which was made, it seemed, with longer-grain rice than one would have found in a traditional Italian version. I had "slow cooked lamb and Sichuan high pie with yellow curry coriander sauce" which I chose mainly because my curiosity got the better of me. The "high pie" turned out to be a mooncake-sized (and shaped) disk of pastry, wrapped around shredded lamb with Indian seasonings, sitting inside a tiny ring of pale yellow sauce.

Before I go any further, you should know something else about me: I can claim no training in the dos and don'ts of French cuisine—or any cuisine, for that matter. But more important, I am prejudiced against complicated food. You know the kind I mean—the kind that takes a simple cut of meat or filet of fish and piles it high with exotic plants from far-flung islands in the Pacific or the woods surrounding quaint villages in the French Alps. And then there is the compulsion some chefs seem to have to maximize the diameter of the plate, and minimize the amount of edible material, apparently to leave more room for teaspoonsful of sauce or the occasional roasted baby beet. I'd rather have a slice of real New York pizza.

So when poring over the T8 menu I found myself thinking, Why cod with mustard lentils? Why rack of lamb and fried chickpea cakes? And what was so special about the flat rice noodles with soy and ginger sauce, broccoli, and "carrot salsa"? That sounded like something I had made at home the month before (except maybe for the carrot salsa). These didn't seem like great culinary innovations I could only find in Shanghai. And, in the end, that's what I concluded about T8. I could now find the same hip, trendy restaurants in Shanghai that I could find in New York, Paris, and other great food cities.

Yet I left the restaurant longing for the Chinese restaurants that I usually seek out on my China visits—the homey places that focus on the food more than the ambience, that concentrate on serving simple dishes that may not be on the culinary cutting edge but don't hurt your wallet, either. The New York equivalent would be the corner coffee shop like the one immortalized in "Seinfeld." Or the countless small, family-run restaurants featuring food from their home towns—or home countries.

So I spent the few remaining dinners I had left in Shanghai relying on the recommendations of friends about their favorite Shanghai, or Hunan, or Indian restaurant. Because that, really, is what I think makes a great food city great. It's not the trendy, edgy places that put newfangled fillings in ravioli. It's places like the particularly good Hunan restaurant I found with the help of one of my Shanghai-based colleagues. Let me know if you need the name.

—*Catherine Gelb*

Catherine Gelb is editor of *The CBR*.


MAERSK