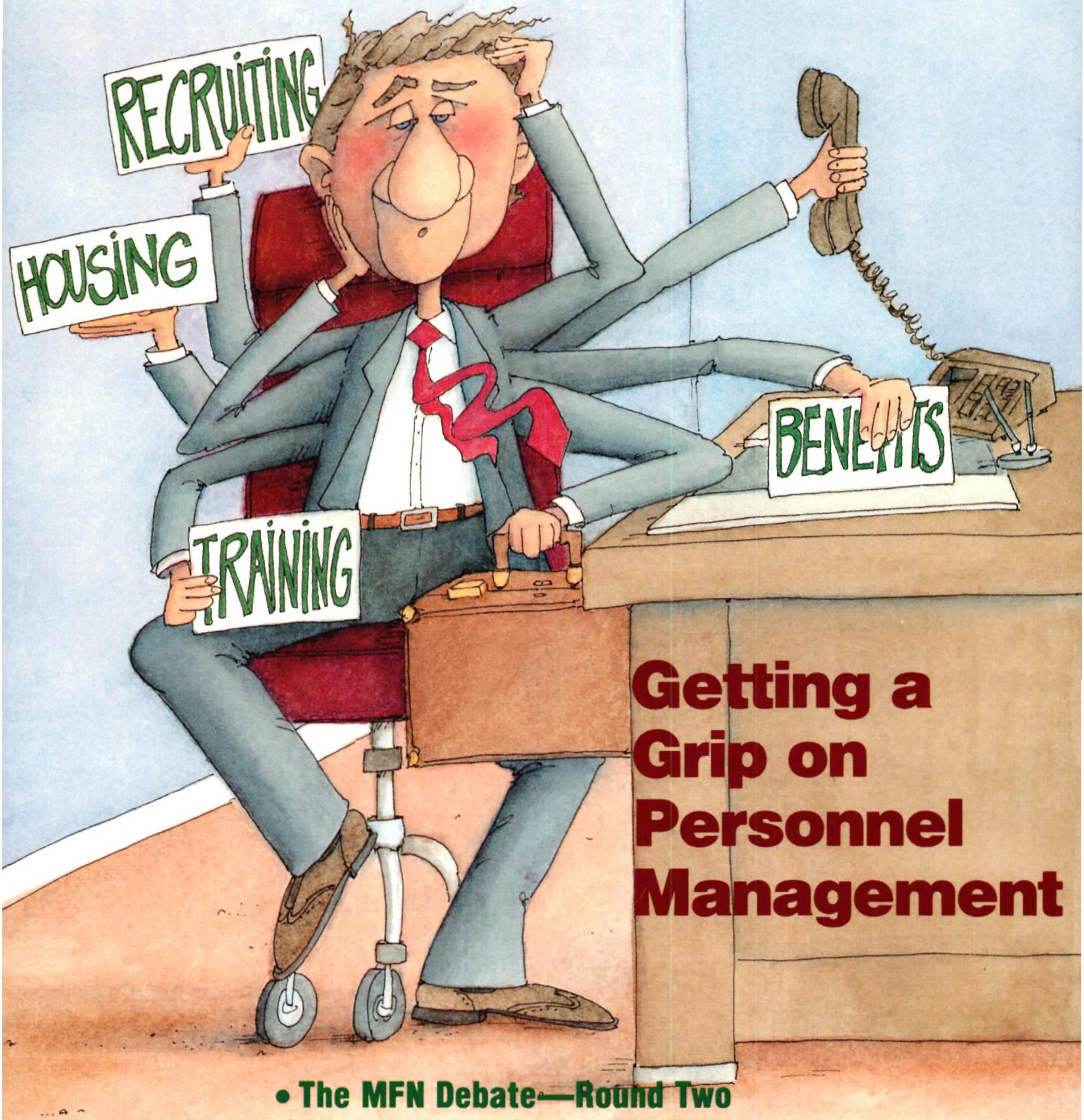
THE CHINA BUSINESS REVIEW

JULY-AUGUST 1991
VOLUME 18, NUMBER 4



Getting a Grip on Personnel Management

- The MFN Debate—Round Two
- China Dumping Cases Skyrocket

For executives relocating to Hong Kong, a thorough study of our

A SUMMIT INTERNATIONAL HOTEL

88 Tai Tam Reservoir Road, Hong Kong. Tel: (852) 812 38

:location guide is a very wise move.

OUR
FREE
EXECUTIVE
RELOCATION
PLAN
MEANS
THE
Highest
CONVENIENCE.

PARKVIEW SUITES

ax: (852) 812 1488 Telex: 70310 HKPVW

The only luxury resort in the heart of Hong Kong.

Cover Art by Jim Paterson

THECHINA BUSINESSREVIEW

JULY-AUGUST 1991 VOLUME 18, NUMBER 4

Features

Departments

You've got China with American Express.

From Guangzhou to Harbin. From Shanghai to Urumqi. The American Express® Card is accepted in more than 130 cities all over the country. Now consider the other privileges our Cardmembers and customers enjoy.

Emergency Cheque Cashing
Should you need emergency cash, just bring your personal cheque and the Card to the designated branches of the Bank of China, the CITIC Industrial Bank or the Bank of Communications all over the country. Your cheques will be cashed on the spot.

Travelers Cheques
You can encash American Express Travelers Cheques at most hotels and branches of the above three banks too. If they are lost or stolen, you can claim a refund at most of their branches. And with our Worldwide Refund Delivery Service, we can arrange to have your refunds* delivered to where you are staying. Just phone the American Express Regional Refund Center in Hong Kong (Tel: 852-8859331).

Travel Services
In cooperation with China International Travel Services (CITS) Beijing Head Office, we can arrange bookings of the best tours, hotels and airline tickets for you. Our exclusive Worldwide Customer Care Service is also available at our Beijing Office, White Swan Hotel in Guangzhou and the CITS branch office in Shanghai and Xian to provide on-the-spot travel related services.

Beijing Office
Our friendly staff will help you with travel information reporting of lost Cards and Travelers Cheques, emergency Card replacement and even a client's mail service. These are some of the many services that support the American Express promise that 'Membership Has Its Privileges℠'. You will find us at Shop L115D, West Wing, China World Tower, China World Trade Center, Beijing. Or call 5052639.

* Except war zones and disaster areas.

AMERICAN EXPRESS TRAVEL RELATED SERVICES
An American Express company

The American Express Card is welcomed in over 130 cities. These include Beijing, Chongqing, Dalian, Fuzhou, Guangzhou, Guilin, Hangzhou, Kunming, Nanjing, Shanghai, Shenzhen, Suzhou, Tianjin, Wuhan, Wuxi, Xian, Yangzhou and Zhuhai.

Letter from the President

In order to ensure a smooth transition of the Council presidency at a critical juncture in US-China relations, outgoing President Roger W. Sullivan and incoming President Donald M. Anderson visited Hong Kong and China in May to meet with key Council contacts. The culmination of their trip was a two-hour meeting with Premier Li Peng in the Great Hall of the People.

The Word from Beijing

My first taste of life as president of the US-China Business Council occurred before I officially took over the helm—when Roger Sullivan and I traveled to China and Hong Kong. For Roger the trip was a chance to say farewell to his many friends in Beijing, while for me it offered a valuable opportunity to strengthen contacts in Hong Kong and get a feel for the mood in Beijing as we enter the debate over China's Most Favored Nation (MFN) trading status.

In Beijing we met with senior officials of the Ministry of Foreign Economic Relations and Trade (MOFERT), the China Council for the Promotion of International Trade (CCPIT), the State Planning Commission, the State Council, and the Ministry of Foreign Affairs. Our final meeting was with Premier Li Peng, who informed us that he considered the meeting a way to speak to the entire American community—an extraordinary nod to the influence and respect the Council commands in Beijing.

Confronting the issues

Several themes dominated our discussions, but foremost was the MFN issue. We explained to the Chinese the current environment on Capitol Hill, including Congress's concern over human rights, prison labor, the trade deficit, and proliferation of nuclear and conventional weapons. Our Chinese counterparts, appreciative of the candor with which we outlined the situation, were clearly anxious to explore avenues that might have a beneficial impact on the debate. MOFERT officials, for instance, were eager to learn if the large buying mission that visited the United States in May would help yield positive results. And Li Peng, in response to our exhortations that China abide by international norms of arms control, told us that the controversial Chinese-supplied nuclear reactor in Algeria would be available for international inspection by the International Atomic Energy Association.

Despite these encouraging signs, it was also apparent that there was a limit to what the Chinese leadership was willing to do to preserve MFN. As Premier Li said, China is "working for the best, but is prepared for the worst." His message was unequivocal: China had taken measures to maintain the relationship, but would go no further. Any attempt by Congress to impose conditions on China would be rejected by the leadership.

Another prominent topic during our meetings was China's growing trade surplus with the United States. Again and again, the Chinese argued the surplus was really with Taiwan and Hong Kong, and that they didn't profit much by the approximately $15 billion (in US figures) worth of exports they sold to the United States last year. According to Deputy Minister of the State Council He Chunlin, $7-8 billion of these exports were imported materials processed in Guangdong and Fujian and then re-exported. Deputy He claimed that China earns only a small amount—perhaps $700 million—from these exports. To surmount this problem, He said that at top levels there was discussion of introducing a certificate of origin program that would require processing enterprises to add at least 25 percent to the value of a product. This claim—as well as numerous references to the over-concentration of the processing industry in South China—bears watching.

These remarks were echoed by Premier Li, who noted that due to the low value-added nature of China's processing industry, the amount of hard currency the country would lose if MFN is revoked would be small. Li added that the impact on employment would also be minimal—the two million or so workers in southern China who would likely lose their jobs would just return to their farms. Li claimed that foreign enterprises would lose far more than Chinese enterprises in such a scenario, again making it clear that the threat of withdrawing MFN will not bring about major, substantive policy changes in Beijing.

In sum, the Chinese with whom we met were clearly concerned about MFN and, more generally, the direction of US-China relations. While our reception was extremely cordial, it seemed there was an air of uncertainty hanging over all of our talks—uncertainty about the probable outcome of the MFN debate and about the course China should follow. The answer to the first question, at least, should be clearer by the end of the summer.

USTR Targets China

On April 26, the office of the US Trade Representative (USTR) cited China and three other countries for inadequate protection of intellectual property under the terms of the 1988 Omnibus Trade Act. China was designated a priority country under special 301 provisions of the law, which authorizes USTR to conduct a six-month investigation of the practices of offending countries. Barring major progress in protection of patents, trademarks, and copyrights of US companies in China, at the end of the investigation the US government may retaliate with prohibitive tariffs on selected Chinese exports to the United States.

The US government has long been dissatisfied with China's protection of intellectual property, claiming that US companies lose millions of dollars each year through unauthorized use of proprietary products and information. The high numbers of pirated copies of US software and computers, in particular, have been of growing concern. By USTR estimates, Chinese predation of software alone cost US companies as much as $300 million last year.

Chinese officials, who are well aware of the problems, have engaged in a number of negotiations with USTR representatives to address US concerns, but progress has been slow at best. Chinese officials claim that the passage of the long-awaited copyright law last fall put China on a par with other developing countries, but the law has serious gaps in serveral key areas (*see The CBR*, November-December 1990, p. 4). Computer software, for example, can be copied by any non-commercial entity, while literary works are protected only if first published in China. Effective since June 1, the law has not quelled US concern over protection of intellectual property in China.

In the patent area, delay of amendments to the 1984 Patent Law leaves pharmaceutical and chemical products without adequate protection. Given the opposition of the counterpart Chinese industries to extending patents to products in addition to processes, no breakthroughs are expected during USTR's investigation.

During the latest round of USTR-Chinese negotiations in June, Assistant US Trade Representative for Japan and China Joseph Massey raised the issue of market barriers in addition to the intellectual property protection issues already on the table. This could indicate that USTR is considering initiating an investigation into Chinese trading practices under 301 provisions of the 1988 Trade Act, though no formal decision has yet been made. Included on USTR's list of barriers were lack of transparency of Chinese rules and regulations affecting foreign trade and investment, the large numbers of products subject to import bans or licenses, excessive tariffs, and failure to employ international competitive bidding procedures for government contracts. —*VL*

New Ambassador to Beijing

J. Stapleton Roy, former US ambassador to Singapore, has been nominated by President Bush to replace James R. Lilley as ambassador to the People's Republic of China. Roy, who was born in Nanjing in 1935, served as deputy chief of mission in Beijing from 1978-81. Confirmation hearings on Roy's nomination are expected to take place this summer.

US Trade Deficit with China Soars

US-China bilateral trade in 1990 rose about 12 percent to a new high of $20 billion, according to the US Department of Commerce (DOC). The overall trade increase, however, masked a substantial deterioration in the trade balance, with US exports to China falling by $4.8 billion, down 17 percent over the previous year. Chinese exports to the United States, in contrast, climbed nearly 27 percent to $15.2 billion. As a result, the US trade deficit with China reached $10.4 billion in 1990—the third highest, behind Japan and Taiwan—compared with only $6.1 in 1989. Preliminary figures for the first few months of 1991 indicate that the trend is continuing, making it possible for the US deficit with China to reach $15 billion by year's end.

THE CHINA BUSINESS REVIEW

1818 N Street, NW
Suite 500
Washington, DC 20036-5559

202/429-0340
Fax: 202/775-2476
Telex: 64517 NCUSCTUW

Editor
Pamela Baldinger

Associate Editor
Vanessa Lide

Circulation & Advertising Manager
Daniel P. Reardon

Production Manager
Jon Howard

The China Business Review welcomes articles from outside contributors. Manuscripts submitted for consideration should be sent to the editor, *The China Business Review*, 1818 N St., NW, Suite 500, Washington, DC 20036-5559. The China Business Forum retains all rights to articles and artwork published in *The China Business Review*. Articles or artwork published in *The China Business Review* may be reprinted in non-Council publications or reproduced only with the written permission of the China Business Forum.

The China Business Review, ISSN No. 0163-7169, is published bimonthly by the China Business Forum, 1818 N St., NW, Washington, DC, 20036-5559, USA (Tel: 202/429-0340), a nonprofit organization incorporated under the laws of Delaware. Second class postage paid at Washington, DC, and additional mailing offices. Postmaster, please send address changes to *The China Business Review*, 1818 N Street, NW, Suite 500, Washington, DC 20036-5559, USA. Articles in *The CBR* do not reflect Forum policy, unless indicated. *The CBR* is grateful to I-Chuan Chen for the calligraphy used for the magazine's departments.

The New WFOE Implementing Regulations

Investors are unlikely to find the going any easier

Lucille A. Barale

Once discouraged by Chinese leaders and eschewed by foreign investors, wholly foreign-owned enterprises (WFOEs) have grown increasingly popular with both groups over the last few years. As China's austerity program put the crunch on local investment funds, local authorities urged foreign investors to set up WFOEs rather than joint ventures. And foreign companies, encouraged by the success of early WFOEs of such companies as PepsiCo. Inc. and W.R. Grace, complied. Though joint ventures remain foreign investors' favored type of investment, the number of WFOEs jumped from 18 in 1986 to over 1800 in 1990.

Exactly what sectors WFOEs were supposed to operate in and what export requirements they were to meet, however, was never made clear by the Chinese until recently (*see The CBR*, January-February 1990, p. 30). The 1986 Law on Foreign Capital Enterprises (the WFOE law) did provide some rough guidelines, but foreign investors had to wait four years until more detailed implementing regulations were announced in December 1990. The new Detailed Rules for the Implementation of the Law on Foreign Capital Enterprises (the WFOE Implementing Regulations) cover a number of topics, including procedures required to establish a WFOE, the legal form of the investment, methods of capital contribution, land use, purchases and sales, taxation, and grounds for liquidation. Though the WFOE Implementing Regulations do offer some insight as to which sectors will likely welcome WFOE operations, foreign investors will probably find the regulations make it no easier to establish and maintain WFOEs than before.

Reflecting the government's concern with the potential for overvaluation of assets, the WFOE Implementing Regulations explain in great detail how to value in-kind contributions to an investment with no Chinese partners.

Q *In which sectors can a WFOE be established?*

A The new regulations offer few surprises; many of the areas precluded from WFOE investment are those unlikely to be approved for any kind of foreign participation. WFOEs are prohibited in the areas of news media, publishing, movie production, insurance, radio or television broadcasting, and post and telecommunications operations—areas where Beijing has always sought to maintain a high level of control. Underscoring China's preference for "productive enterprises," investors are also prohibited from establishing WFOEs set up for the sole purpose of engaging in domestic commerce or foreign trade.

The second tier to this policy of exclusion includes sectors in which WFOEs will be restricted, though not prohibited outright. Presumably, this means that WFOE investment would not ordinarily be found in these sectors, but might be permitted under certain circumstances. These sectors include: public utilities, transportation and shipping, real estate, leasing, and trust and investment. Regardless of the size of the investment, if a WFOE is to be set up in one of these areas, approval must be obtained from the Ministry of Foreign Economic Relations and Trade (MOFERT), rather than from local authorities.

Q *What technology and export standards must WFOEs now meet?*

A The 1986 WFOE law contained vague requirements that a WFOE must use "advanced technology and equipment" or "export all or the majority of its products." The WFOE Implementing Regulations explain more fully how to meet these goals, but do not raise existing technology and export requirements. Basically, WFOEs that wish to be accepted on the basis of the technological level of

Lucille A. Barale is an attorney with the international law firm of Coudert Brothers. Now based in Washington, DC, Barale headed the firm's Beijing office from October 1983-July 1989.

their operations must use advanced technology and equipment, develop new products, and conserve energy and raw materials. In addition, such WFOEs should upgrade existing domestic manufacturing capacity so that their products may serve as import substitutes.

Alternatively, a WFOE may be found acceptable on the basis of robust export sales and a healthy foreign exchange account. Potential WFOEs seeking approval on these grounds must show that the value of their annual exports will be more than 50 percent of the value of that year's total production. Furthermore, WFOEs must either balance foreign exchange revenue and expenditures or realize a surplus.

Q *How is a* WFOE *established?*

A Clearly, any foreign company wishing to set up and operate its own enterprise in China faces significant market barriers at the outset; the WFOE Implementing Regulations fail to simplify the approval process. Potential investors must still pursue both informal and formal channels to gain approval, but neither route is described in much detail in the new regulations.

As far as the formal process is concerned, the WFOE Implementing Regulations are short on details on the early stages. The Regulations state only that prior to making an application to establish a WFOE, the foreign investor must submit a report to the local government discussing the purpose of the WFOE, the scope and scale of its production, the technology it will utilize, the proportion of output to be sold on the domestic and international markets, land and utility needs, and any other requirements. The regulations are silent as to which government organs to approach, but do state that the foreign investor should receive a response within 30 days of submission of the report to local authorities. Previous experience has shown that a copy of the potential investor's report is usually sent to the local planning commission with a letter of introduction from the relevant industry bureau.

Gaining the support of this bureau must be done through informal channels. The bureau is likely to be concerned with how local factories in the same or a similar industry would be affected by the WFOE—local market shares could be threatened, for example, or raw materials in short supply could become even harder to obtain. Although not stated in the law, these and other concerns of the local industry and bureaucracy must be satisfied before the potential WFOE investor even submits an application.

Once the local government approves the investment, the foreign investor can file an application with MOFERT or its local equivalent. At this point, a complete feasibility study is required, along with the articles of association for the WFOE. Approval authorities will also be interested in the identity of the board of directors or other representatives of the WFOE, the items which the foreign investor intends to import for the WFOE, and proof of the legal existence of the foreign investor and his creditworthiness.

If the WFOE is to be established with more than one foreign owner, the approval authorities will want to see a copy of the agreement between the foreign owners. Once all documents have been submitted, the WFOE Implementing Regulations stipulate that approval authorities must decide within 90 days whether the WFOE can be established.

Q *How are WFOE assets priced?*

A An investment in a WFOE may be made with freely convertible currency, *renminbi* earned from other investments in China, or in-kind contributions of equipment, technology, or other industrial property. Reflecting the government's concern with the potential for overvaluation of assets, the WFOE Implementing Regulations explain in great detail how to value in-kind contributions to an investment with no Chinese partners.

The Regulations state, for example, that if equipment or machinery is to be used as an in-kind contribution to the capital of a WFOE, the equipment must be necessary for production and not otherwise "available" in China. Availability is determined by whether the equipment is manufactured domestically, and if it is, whether local suppliers can meet the technical specifications or delivery terms of the WFOE. The value assigned to the equipment or machinery must not be higher than the prevailing international price.

Similarly, the WFOE Implementing Regulations provide that industrial property or technology may be contributed as capital when the foreign investor can show it owns the property or technology and will use it to manufacture products China urgently needs or can export. The WFOE Implementing Regulations state that "in principle" the value of these intangible contributions should be the same as the value used internationally. In reality, however, it may be quite difficult to identify an appropriate international value for such contributions.

Detailed information regarding equipment, machinery, industrial property, and proprietary technology to be invested in the WFOE must be included in the application. This information will then be used as a basis for verifying the in-kind contribution after the WFOE is established. Chinese commodity inspection authorities have the right to make a determination regarding any discrepancies between the equipment and machinery described in the application and that which arrives at port. Customs authorities may also require the foreign investor to remedy the situation within a certain period of time.

Proprietary technology and industrial property that have been contributed as part of the capital to the WFOE will also be inspected once put into practice by the WFOE. The inspection will be conducted by the approval authorities, who also have authority to require the foreign investor to correct any deficiencies they find between the industrial property or proprietary technology described in the application and that actually used by the WFOE.

Q *How much autonomy does a WFOE have?*

A One of the main attractions of WFOEs is the degree of control over business matters they offer foreign investors—a benefit not always enjoyed by joint ventures. Though the WFOE Implementing Regulations reaffirm earlier legislation that provides each enterprise "autonomy in formulating and implementing its production and operations" and stipulates that operational plans be submitted to the Chinese department in charge for the record only, they also spell out a number of significant limitations on the right of a WFOE to act on its own—even within the scope of its permitted business purpose.

Under the WFOE Implementing Regulations, the price at which a WFOE imports materials is not to be higher than the prevailing international market price for similar materials. When importing technology or labor, the price paid by the WFOE must be a "normal" price. Export prices for WFOE products are to be set by WFOEs themselves with reference to international market prices, but not lower than a "reasonable export price." These provisions apparently reflect concern over tax evasion—tax authorities are given the right to investigate and assign liability when materials are imported at high prices and WFOE products sold at lower prices in order to evade Chinese taxes (*see* box).

Even tighter restrictions are spelled out in the WFOE Implementing Regulations for products to be sold on the domestic market. Prices of WFOE products to be sold in China are to be in accordance with price control regulations when applicable. And if a WFOE's domestic sales are likely to exceed the percentage stated in its

Thumbs Up for WFOEs

Deputy director of the Department of Treaties and Law at the Ministry of Foreign Economic Relations and Trade (MOFERT) from 1982-88, Liu Chu is currently a visiting professor of law at the University of California, Los Angeles, and of counsel at the law firm Gibson, Dunn & Crutcher. During his tenure at MOFERT, Liu led the drafting of the wholly foreign-owned enterprise (WFOE) implementing regulations, which were passed last December. Liu spoke with Editor Pamela Baldinger about the evolution of the regulations.

CBR: *How do the final WFOE implementing regulations differ from the draft you prepared?*

Liu: There weren't many changes, but the final regulations are more detailed, especially with regards to transfer pricing. Chinese officials have always been concerned that WFOEs might provide a means for foreign companies to evade Chinese taxes by buying goods at artificially high prices from a parent or affiliated company outside China and then selling to them at artifically low prices, thereby transferring any profit to the other company. Some Hong Kong companies have actually been caught doing this. To prevent this practice, the original WFOE law stipulated that WFOEs must keep account books; the implementing regulations now specify that goods must be sold at international prices. In addition, the Ministry of Finance recently passed regulations on this issue, and can send someone to a WFOE to set prices if it deems they have been set too high or too low.

CBR: *How do the implementing regulations deal with WFOE holding companies? Are they allowed?*

Liu: This is a gray area, not directly addressed anywhere. You know, currently in China the thinking is that if something is not outright prohibited by law and is generally in line with the policy of opening and reform, it can be tried. Therefore, if the law is silent on this issue, someone should be able to experiment. There are currently eight or nine joint venture holding companies, but I don't know of any WFOE holding companies. There could be a problem with such a company, however, since holding companies are subject to tax. A WFOE holding company might be taxed twice after its subsidiaries submit their after-tax profits to it, as there is currently no protection against such double taxation. This obviously would reduce the incentive to create such a company.

CBR: *Do you think the new WFOE implementing regulations will make WFOEs more attractive to potential foreign investors?*

Liu: I think so, because they are virtually the same as the joint venture implementing regulations—there is no discrimination against WFOEs. Foreign investors therefore no longer have to consider Chinese attitudes when deciding which type of enterprise to invest in; the decision lies totally with them.

CBR: *But Chinese attitudes toward WFOEs improved over the last few years because WFOEs enabled China to attract foreign investment without having to lay out any cash. How can foreign investors be sure Chinese attitudes won't change when capital is more readily available?*

Liu: It's true that in the mid-1980s WFOEs were not the favored form of foreign investment by Chinese officials. But since retrenchment began in 1988, China has had little money to invest in joint ventures. WFOEs seemed better than nothing, so more approvals were granted. Since then, it has become clear that WFOEs do have benefits for China—they employ local workers, buy local materials, pay taxes, and export their output to earn foreign exchange. Furthermore, they do all of this at no risk to China. This has changed official attitudes towards WFOEs. You can see this in the recently passed unified tax law, which gives WFOEs the same tax rates as joint ventures. I don't think Chinese attitudes toward WFOEs will become negative again—the benefits are clear, and there are now laws to put WFOEs on an equal footing with other forms of foreign investment.

application documents, permission to proceed with the sales must be obtained from the approval authorities.

Q Can a WFOE apply to Chinese agencies for foreign exchange assistance?

A In this area the WFOE Implementing Regulations are crystal-clear—Article 56 states that an imbalance in the foreign exchange revenue and expenditures of a WFOE shall be resolved by the WFOE on its own. In the unlikely event that a WFOE was approved despite stating on its application that it would be unable to cover its hard currency needs, the authority that approved the WFOE would be responsible for resolving the imbalance. However, if the application did not indicate that there would be a foreign exchange shortage during the course of operations, the WFOE Implementing Regulations state that no government department shall step in to resolve the matter for the WFOE.

Q How does a WFOE cease operations?

A The WFOE Implementing Regulations contain a number of provisions detailing WFOE termination procedures. As with joint ventures, WFOEs are terminated at the end of their approved terms or when they suffer severe losses or bankruptcy. However, the WFOE Implementing Regulations also provide that the State has the right to terminate a WFOE "as a result of violation of the laws and regulations of China or as a result of harm to the social and public interests." Though this right is implied in other foreign investment-related regulations, the WFOE Implementing Regulations are the first to explicitly state that termination is possible on such grounds.

Q Do the new regulations make setting up WFOEs easier?

A Whether the WFOE Implementing Regulations will ease the way for the establishment of wholly foreign-owned investments—as the Equity Joint Venture Implementing Regulations did for equity joint ventures—remains to be seen. The welcome news is that the requirements regarding export sales volume and the level of technology that WFOEs must maintain have not been made more stringent.

Ironically, however, some investors may find there are disadvantages to having certain requirements clarified. China's previous vague policy and rules toward WFOEs gave foreign investors leeway in crafting enterprises suitable to their business needs, and permitted Chinese officials greater discretion in approving these investments. The new WFOE Implementing Regulations bring greater clarity of regulation, but may also bring more control and supervision as enterprise approval and operating requirements are defined. 完

MFN: Sorting Out the Issues

"The issue of MFN and China involves a particularly complex set of questions. How can the United States best promote human rights and democratization in China, as well as a range of strategic and political interests? Where specifically does MFN fit into that calculus? Do we have a better chance of promoting our multiple interests by revoking MFN, by renewing it, or by imposing some sort of conditionality?"

Rep. Stephen J. Solarz, chairman of the House Subcommittee on Asian and Pacific Affairs

Even before the President notified Congress on May 29 of his intention to renew China's Most Favored Nation (MFN) trading status without conditions for another year, debate on the issue had already begun on Capitol Hill. Like last year the discussion is an emotional one, and reflects as much discontent with the administration's handling of China policy as with Beijing itself. Thanks to a myriad of new complaints against China—the rising trade deficit, arms proliferation, etc. (*see* p. 7)—however, this year's battle promises to be more difficult and more intense.

Currently there are about a half-dozen bills regarding MFN in each house of Congress, fairly evenly split between those that would revoke the status and those that would impose new conditions on it. The two types of bills are subject to different legislative procedures this year, which virtually ensures that at least one bill will be considered by both houses. Last year the House of Representatives voted overwhelmingly to place additional conditions on MFN renewal, but the bill died when the Senate recessed without having considered it.

Now, any bill that seeks to revoke MFN and was introduced into either house after the President's notification is eligible for expedited—or "fast-track"—procedures, as stipulated in the Customs and Trade Act of 1990. Under these procedures, the relevant commmittees (Ways and Means in the House and Finance in

"The most compelling reason to renew MFN and remain engaged in China is not economic, it's not strategic, but moral. It is right to export the ideals of freedom and democracy to China. It is right to encourage Chinese students to come to the United States, and for talented American students to go to China. It is wrong to isolate China if we hope to influence China."

President George Bush in his commencement address to Yale University, May 27, 1991

We wholeheartedly believe that China's trade status should be conditioned upon its performance on a number of human rights issues, including political imprisonment, torture, forced labor, and human rights in Tibet . . . Congress must be committed to ending MFN if those improvements are not made within a specified time frame.

Holly J. Burkhalter,
Washington director, Asia Watch

the Senate) have 30 days after the bill is introduced to hold hearings and make recommendations; if they do not act, the measure goes straight to the floor. Once on the floor, both houses have until August 31 to vote on the bill—no amendments are allowed. If it passes both houses, it then goes to the President. If the President vetoes the bill—as appears certain—Congress has 15 legislative days to try to muster the two-thirds majority needed in both houses to override. If Congress succeeds, MFN would expire 60 days later.

"China maintains that no country or organization should be allowed to interfere in the internal affairs of other countries by exploiting the issue of human rights."

The embassy of the People's Republic of China

Currently, it appears that forces wishing to revoke MFN have the necessary support in the House; it is unclear, however, whether they will get two-thirds of the Senate. It therefore appears that some form of conditionality bill may have a better chance of passing both bodies with the required margin. Though these bills are subject to the normal legislative process—meaning there is no time frame within which any action must be taken and they may be amended—both houses seem to be preparing to vote on a conditionality bill at the same time they vote on a resolution of disapproval.

The conditionality bills presently before the two houses vary both in the types of conditions they seek to impose as well as what measures the President would have to take to waive them. The White House has made clear that the President will veto any measure that limits his maneuverability by forcing him to certify that the Chinese had taken specific actions to meet Congress's demands.

The battle, therefore will likely focus on whether to impose mild conditions. Barring any new revelations of Chinese misbehavior, it currently appears that the administration will be able to prevail over pro-condition forces, though the count will be close. Some analysts believe that the US Trade Representative (USTR) may initiate 301 proceedings against China for alleged market barriers later in the summer to help divide the trade and human rights forces in Congress currently aligned against MFN, thereby helping the President's hand. For businesspeople, it looks like a long, uncertain summer ahead. *—PB*

"We strongly believe that this privilege should be revoked at the earliest possible moment because it is harmful to both China and the United States . . Our objections to MFN are many—about 20 in number. Our central concern, however, is that MFN status contributes directly to the Chinese government's brutal repression of China's working men, women, and children."

Rudolph A. Oswald, Director, Department of Economic Research, AFL-CIO

Project Notebook

One Step Ahead

A sophisticated technology transfer agreement may enable Gelman Sciences to set a pharmaceutical industry standard

Kelly Nelson

"In China we perceived an emerging market with no established product identification or loyalty. This meant we could pioneer the market, rather than follow in someone else's path," says Eric Gelman, vice president of Gelman Sciences' international division. The company, a Michigan-based producer of microfiltration products, recently concluded a complicated set of technology transfer, distribution, and buy-back arrangements that took six years to complete. Though the firm stands to gain some $5.2 million over the next several years from the China contract, it clearly has bigger margins—and a longer time frame—in sight.

Filling a gap

Gelman Sciences has agreed to sell China the technology and equipment necessary to manufacture microfiltration cartridges, which are used in research and clinical laboratories, health care facilities, and industrial process industries. The four types of cartridges to be produced in China will be used for filtration of various fluids and fermentation of drug solution preparations. According to Charles Robrecht, Gelman's vice president of international business development, China will be able to absorb and assimilate the microfiltration technology "without difficulty."

Adopting the new technology will be critical to China's pharmaceutical industry, which is seeking to bring its overall manufacturing capability and quality standards up to Good Manufacturing Practices (GMP) standards, the international norm in the industry. Until these standards are met, Chinese pharmaceutical manufacturers are effectively blocked from exporting their products. The company estimates that China's pharmaceutical industry should be able to meet GMP standards within 10 years.

A four-pronged contract

Gelman's contract with the China National Pharmaceutical Foreign Trade Corp. involves a combination of technology transfer and equipment sales agreements, a long-term supply arrangement, a distribution agreement, and a complex buy-back plan—all to be implemented over the next seven years. To accommodate all the arrangements, the contract is separated into four separate agreements.

The first aspect of the contract is a technology transfer arrangement, under which Gelman will transfer microporous membranes and the technology necessary to produce the cartridge filtration devices that employ the membranes. The Chinese licensee is Shanghai's Ji Cheng Pharmaceutical Co. (JCPC), which already produces similar products. Nearly all the JCPC-produced cartridges will be used in the domestic industry.

The technology transfer agreement calls for Gelman to sell JCPC the technology and equipment necessary for the Chinese company to build a plant to produce the microfiltration cartridges. Approximately 18 machines are needed to make just one completed filter; each machine performs specialized functions such as endcapping, seaming, and stamping the product. The proposed filtration plant—a 16,000 sq ft facility located outside Shanghai—is currently under construction and is expected to begin full operations by May 1992.

Both technology and equipment will be transferred to JCPC under a non-exclusive manufacturing license, which is non-transferable. JCPC will manufacture all products under its own name—the contract does not give the company permission to use Gelman Sciences' name either on the product or for promotional purposes. JCPC and Gelman's Chinese distributor have also agreed to protect from disclosure all proprietary information transferred for the life of the contract. In a further effort to protect its intellectual property rights, Gelman will retain all trademark rights to its products, though the company has not registered its trademark in China.

Penetrating the domestic market

The second part of the agreement is a long-term supply arrangement, under which Gelman will provide JCPC filter membranes, an essential component in the microfiltration cartridge production process. For the first five years of the contract, Gelman will sell the membranes at competitive international market prices.

JCPC is to finance its purchases of the membranes and technology through scheduled progress payments, the first of which was made in November 1990. For the first year, payments are due every 4-5 months. They will then decrease to about one per year, ending in April 1993. Once the manufacturing process has begun, future supplies will be purchased by letter of credit. Gelman has agreed to sell any components needed to produce the cartridges should the local factory have problems manufacturing them.

Kelly Nelson regularly reports on new business ventures in China for The CBR.

A third component of the contract is a three-year distribution agreement with the Chinese Pharmaceutical Industry Corp. (CPIC). CPIC will distribute Gelman Science laboratory and process products manufactured in the United States to China's pharmaceutical sector. The contract does not provide for any profit sharing between CPIC, JCPC, and Gelman Sciences, but CPIC will receive commissions from distribution of Gelman products. As the expiration date of the contract approaches, each side will have 90 days to terminate the agreement; barring termination, the contract will automatically be extended two years.

Financing the deal

The last portion of the contract, a buy-back agreement, is the most complicated—but crucial—part of the relationship. The buy-back plan will allow JCPC to sell its cartridge filtration devices, as well as other pharmaceutical products manufactured in China, back to Gelman Sciences. Gelman is obligated to purchase a specified-dollar amount of products each year, and may fulfill its guarantee by buying products not produced under the technology transfer arrangement, provided the Chinese agree. Gelman currently has plans to meet some of its obligation by buying labor-intensive products produced outside of its contract with JCPC.

Under the terms of the buy-back contract, the Chinese can earn up to 80 percent of the cost of their purchases of membrane material; the remaining 20 percent will be financed from commissions earned under the distribution clause. Both CPIC and JCPC will cooperate in the distribution of Gelman products—CPIC will specialize on the commercial aspects, and JCPC will focus on technical support. This arrangement will allow the Chinese manufacturer to obtain the foreign exchange necessary to continue to purchase microporous membranes from Gelman. Without a steady supply of the membrane material, JCPC would be unable to continue to manufacture the cartridges.

The agreement stipulates that all JCPC products subject to buy-back provisions must meet specified quality standards—Gelman staff will perform any necessary quality checks. Gelman reserves the right to refuse to purchase the cartridges should they not meet the pre-arranged standards. According to Robrecht, the Chinese have "guaranteed" their products will meet the quality levels specified in the contract.

Putting the deal in motion

Given the sophisticated nature of microfiltration technology, training is an integral part of the contract, and will be conducted in both the United States and China. As laid out in the contract, Gelman will provide a four-week training session at its Ann Arbor headquarters for nine people from JCPC. All costs for this session are to be borne by the Chinese. Onsite training in China for up to 24 man-hour weeks is also included in the contract, and will begin after the equipment is installed in the new Shanghai facility. For this training session, Gelman Sciences will cover all costs for the two trainers it sends to China to set up the production line.

The first training session is planned for August, when Chinese operators and managers of the soon-to-open Chinese plant will receive hands-on training at Gelman Sciences. A special production line will be set up for the trainees to study, and will be dismantled and shipped to China after the delegation has had a chance to test it and observe production line procedures.

Formal training for CPIC employees in the areas of filtration technology and product application has already been completed. This training will enable CPIC to conduct educational seminars for Chinese endusers on the applications of the microporous membranes and other microfiltration products. Additional training will be provided by Gelman Sciences' Hong Kong representative as needed. All documentation and proprietary information provided by Gelman Science to JCPC and CPIC for training is to be protected from disclosure during the contract period.

Finding the right format

Gelman Sciences first became interested in establishing relations with China in 1984. After several unsuccessful attempts to penetrate the Chinese market through participation in trade shows, the company decided to consider investing in a joint venture. "The Chinese wanted us to invest the capital and technology upfront in return for their supplying labor, land, and facilities," said Eric Gelman. "But ours is a high-capital, technology-intensive field—labor is a very small component of our overall costs, so we really had no incentive to invest under those conditions. A joint venture would have left us with no way to realize a return on our investment." After nearly two years of negotiations, Gelman broke off the discussions and switched tack. Convinced that technology transfer was the best mode of cooperation for a high-technology company, he located a new potential Chinese partner and started negotiations from scratch.

Progress, however, did not come quickly, for a number of reasons. First, Gelman Sciences found that it had to scale down the size and scope of its original proposal in order for the Chinese to find it acceptable. The Chinese also insisted on manufacturing some equipment locally, rather than relying solely on imports. Other points of contention included the percent of purchases against which buy-back would be necessary, labor rates, and the amount of labor required per operation. The final contractual sticking point was the terms of payment.

Despite the wait—and the frustration along the way—Gelman Sciences is confident that it will occupy a leading position in its niche of China's pharmaceuticals sector. Gelman anticipates revenue from the technology transfer to reach $2.8 million within two years, and forecasts cumulative revenues of $5.2 million by 1997. An additional $300,000 is expected from sales of Gelman products under the distribution agreement with CPIC.

Gelman Sciences' contract with China—the company's largest international deal to date—may offer some encouragement to other high-tech companies seeking an entry into the China market. Though negotiations were long and often difficult, Eric Gelman says the results were well worth the effort, since "The only easy deal you can make in China is a bad deal."

Satisfying Labor Laws—and Needs

Human resource management in China requires skill, patience, and understanding of the system

Christine Casati

In the world of international business, one of the greatest challenges for an expatriate general manager may well be the start-up and ongoing management of a manufacturing venture in China. Faced not only with the demands and inconveniences of a centrally planned developing economy, expatriate managers must also deal with a wide range of human resource issues. A foreign general manager essentially takes on the responsibilities of the factory director in a State-owned enterprise; most of these directors spend 50 percent or more of their time on employee-related welfare issues. Though much of this responsibility can be delegated to the Chinese partner, the general manager must ensure that human resource issues are being tackled to the benefit of both employees and venture.

Even though all foreign companies examine labor issues in feasibility studies before investing in China, the treatment of local human resource issues usually boils down to calculations of numbers and costs of employees. Final contracts generally stipulate only that Chinese employees be hired on a contract system and be given the right to form a union if their numbers warrant. These two documents reveal little about the complexities of human resource management in China, nor how to navigate the bureaucracies that regulate this area. Yet in order for a foreign-invested enterprise (FIE) in China to succeed, its expatriate staff must understand how the venture fits into the larger framework of China's labor management system; only then will they be able to balance the obligations of the State with those of their venture.

FIEs must implement a labor contract system and assume total responsibility for all employee welfare programs, subsidies, and pensions.

Fitting into the landscape

In China labor is strictly controlled and is a key factor in the government's economic and fiscal planning. Beijing is trying to move away from a lifelong subsidized labor system by encouraging the use of five-year "labor contracts," under which enterprises themselves assume more of the burden for labor costs from after-tax profits. Under current laws, all FIEs must implement a labor contract system and assume total responsibility for all welfare programs, subsidies, and pensions during the period of the contract, which can range from 1-5 years. Most Chinese workers, however, are fearful of moving into a contract system and giving up lifelong benefits, especially in poorer areas. Chinese statistics show that the government has succeeded in convincing only about 15 percent of its urban laborers to move into the contract system. FIEs may thus find it difficult to recruit workers who fear they will lose job security after the FIE contract expires.

Perhaps even more ingrained in the Chinese mentality than the concept of the "iron rice bowl" and its guaranteed benefits are the distinctions between classes of employees and the general lack of mobility between them. All Chinese employees in the State-sector are divided into two categories: laborers (*gongren*) and cadres (*ganbu*). These labels, which are based upon level of completed education and job assignment, are hard to change and tend to last a lifetime. The two groups of employees are administered by different organizations; laborers fall under the jurisdiction of the Ministry of Labor, which regulates labor planning and wage levels for all State production enterprises, while cadres in State organs are administered by the Ministry of Personnel. The various provincial, city, and county governments, along with their associated party committees, are responsible for appointing local labor and personnel bureau directors. General managers of FIEs will have to deal with both bureaus in managing their employees.

During the first quarter of each year, FIEs are required to submit to the local bureaus a plan reporting the number, skill levels or job titles, and sometimes age ranges of workers

Christine Casati is managing director of the China Human Resources Group, Inc., a Princeton, New Jersey-based management consulting firm specializing in start-up planning, human resources administration, and recruiting for US investment projects in China. She has assisted numerous FIEs with their start-up operations in China.

they plan to employ. This plan will also be shown to the industrial bureau which supervises the Chinese joint-venture partner. Any major changes in the plan during the year due to unexpected production requirements should be reported for approval.

In major coastal cities, the local labor bureaus can usually provide both the English and Chinese translations of regulations pertaining to labor management of FIEs, along with samples of labor contracts used in other ventures. They have the right to ensure that FIEs are using a labor contract system and will request a copy of employee contracts for their files. They may also request verification that FIEs are not illegally employing children and are paying wages and pension benefits on time and in compliance with relevant regulations. They do not get involved with employee income tax payment issues, which are handled by the local tax bureau.

Local labor officials will assume that the foreign manager of an FIE will know nothing about their system and will maintain contact with the venture through the Chinese partner, if there is one. The general manager, however, should insist on meeting these officials, especially in the start-up phase of the venture. This will give the local officials "face" and allow them to help the general manager understand the mentality, work ethics, needs, and expectations of Chinese workers. After the venture is up and running, relationships with local labor officials can largely be maintained by Chinese staff.

Foreign managers will also have to deal with the Chinese bureaucracy inside their ventures; chances are the FIE's deputy general manager and leading managerial cadres are members of the Chinese Communist Party. These people will likely be under pressure to form a party cell in the FIE, but will tend to conduct their meetings off-site at times that do not conflict with the running of the venture.

Party members can be extremely useful to an FIE and should not be feared or denigrated. Some of the best workers and managers in China are party members, most of whom are eager to learn western management philosophy. In addition, their connections with the local bureaucracy can often help resolve difficulties confronting the venture. Party members rarely cause trouble in FIEs for political reasons.

Party members can be extremely useful to an FIE and should not be feared or denigrated.

Aside from the party, FIEs with more than 25 employees may also have to deal with a trade union. The official function of the union is to protect the rights and interests of the workers. Though technically considered an organ of political education, the union more often tends to focus on employee welfare, recreation, and labor discipline issues in production enterprises. Union-organized strikes familiar in the West are almost nonexistent in China, but may become more common as the economy becomes more market oriented.

To date, few FIEs have complained of union interference in management issues, despite relatively new regulations that grant the unions legal-person status and the right to sit in on board meetings (*see The CBR*, March-April 1990, p.30). Nevertheless, foreign managers wishing to avoid dealing with a union should establish a management system that gives all employees access to the top ranks. This way, workers will not need separate representation. Some FIEs, for instance, have created employee representative committees that meet regularly with the general manager to discuss labor issues. These committees have effectively removed pressure for creation of a formal union.

Determining wage structure

Before an FIE can begin recruiting employees—a lengthy, complex process requiring numerous approvals (*see* box)—it must determine how to structure the employee pay package. Although most FIEs must provide the same types of benefits as State enterprises (*see* list), they do have flexibility in administering these benefits. The real issue is whether the FIE should lump together all types of cash payments into one high monthly payment, or separate them as the Chinese do. Most foreign managers prefer to pay a lump sum, but this method may not result in the greatest economic benefit to the employee—or the venture—given the current Chinese taxation and accounting system.

Under this system, cash subsidies are designated by State authorities either as taxable or tax-exempt. If all subsidies are lumped together as part of the employee's take-home pay regardless of their tax status, however, Chinese employees will end up paying higher income taxes. And FIEs, which are required to pay various types of insurance premiums based on a percentage of take-home pay, will also end up paying more. Since Chinese employees aren't used to paying taxes at all (the tax is applicable only after take-home pay exceeds a certain level), they will likely protest.

Given these drawbacks, it may be wiser for FIEs to structure a wage package that features a base salary derived from the foreign company's own salary grading system. Theoretically, this method should help integrate the Chinese enterprise into the foreign company's global management system. Subsidies not subject to taxation should be accounted for separately, while all others can be lumped together into a "cost of living" or "livelihood" subsidy and added to the basic wage.

Working around the system

The various subsidies and bonuses Chinese employees expect to receive from FIEs increase labor costs considerably, but are necessary to attract and keep the best workers—especially in light of recent attempts to limit the basic wages of FIE employees. Due to complaints by State enterprises that they are losing their best employees because they cannot match the salaries of higher-paying FIEs, the central government in August 1990 issued internal directives that cap these wages (*see The CBR*, January-February 1991, p.8).

These internal, or *neibu*, documents state that salary levels of Chinese employees can exceed 120 percent of the average salary of employees in comparable State-run enterprises only when "increased efficiency and profits permit." Salary levels exceeding 150 percent of the State wage must be approved by the FIE's supervising department and the local labor bureau upon examination and verification of economic efficiency. Currently, many FIEs have basic wage levels well above 150 percent of local rates.

Though the overall impact of these rules has been minor thus far, some FIEs have increased non-cash bonuses to compensate for the cap on basic wages. FIEs have considerable freedom in designing such incentive schemes, which offer Chinese employees opportunities they would not receive in their own system. Typical incentives include extended vacation time, study trips, and housing purchase programs.

Providing welfare benefits

Aside from the many incentives and subsidies FIEs grant their employees directly, they also pay premiums to outside organizations to provide medical coverage and various other types of insurance. FIEs have some leeway in determining how they will administer certain of these payments—such as health insurance and housing subsidies—while others, such as retirement pensions, are bound by more rigid guidelines.

FIE Wage Packages*

Actual monthly employee take-home pay encompasses the following:
- **Base salary** (120-150 percent of base wage in comparable local industry)
- **Production bonus** (usually around 30 percent of base salary. Some FIEs do not issue any bonuses)
- **Positional allowance/floating salary** (can be 15-45 percent of base salary, according to finance regulations)
- **Afternoon or night-shift allowance** (around ¥15)
- **Length of service bonus** (¥.5-5 per year of service. Some FIEs have eliminated this bonus; others use it as an incentive)
- **Personal hygiene allowance** (¥8-18)
- **Single-child allowance** (¥2.5)
- **Transportation subsidy** (¥2-15 depending on distance and mode of transport)
- **Non-staple food subsidy** (¥39)
- **Special zone or suburb subsidy** (local laws allow enterprises in special zones—such as the Minhang zone in Shanghai—to provide subsidies as an incentive to attract workers to the zone)
- **Books and newspaper subsidy** (¥60-150 per year)
- **Other enterprise subsidies** (granted at the enterprise's discretion)

***Additional items comprising the total wage package*:**
(these benefits are calculated as a percentage of take-home pay)
- **Retirement insurance** (30 percent)
- **Medical coverage** (8-12 percent)
- **Workman's compensation** (1-8 percent, depending on the type of work)
- **Housing fund** (15-20 percent)

Employee benefits not considered part of the total wage for accounting purposes:
- **Lunch subsidy** (¥1.5-8 per day)
- **Nutritional subsidies** (nutritional items—or money for such items—distributed to employees working under hazardous conditions. ¥.2-.7 per day)
- **Hot weather subsidy** (given from July-September. ¥3-5 per month)
- **Trade union dues** (2 percent of total wage)

Note: Actual employee take-home pay—less certain deductibles, such as the non-staple food subsidy—is subject to personal income tax if it exceeds ¥420 per month. The FIE is responsible for deducting and paying employee income tax.

* These subsidies and figures are based on the Shanghai area. They vary substantially according to region and locality.

Source: Christine Casati

- **Medical care**

FIES are expected to cover medical costs for the period of an employee's contract. Providing the same care as a State enterprise will offer a sense of security and attract job applicants without being very costly, as the coverage provided by the State is very basic. Although it is possible to design a co-payment plan if salaries are high enough, such a scheme would almost certainly be opposed by Chinese managers and workers, who are unused to paying for most medical expenses. Generally speaking, there are three ways for FIEs to arrange medical care for Chinese employees:

Contracts with key hospitals (*guagou*) Under this system—the one most commonly used by foreign enterprises—the FIE selects one or more hospitals to serve its employees. Each employee receives an identity card and number for registration at the relevant hospital; FIEs are sent a bill for services rendered by the hospital on a regular basis. An FIE may provide unlimited benefits as in State enterprises, or may obtain agreement to establish an annual or lifetime limit per person. Most State-owned enterprises also pay for 50 percent of all medical costs of one dependent (spouse, child, or parent) proven to be without any medical coverage.

Arrangement with individual through employer's clinic (*baogan*)

The purpose of this system, initiated in the State sector during the early 1980s, is to discourage unnecessary hospital visits and drug dispensing to relatives of beneficiaries. Under this system, the employer agrees to pay the enterprise clinic a certain amount per year for each employee. The clinic is expected to control expenses so that its total allowance (i.e., number of employees x individual amount) is not exceeded. If an employee's expenses exceed his allowance, the clinic will work out an agreement whereby the employee must pay a certain percentage of the extra expenses. If the allowed amount is not claimed during the year, the employee may receive a percentage as a bonus at year end. The clinic also receives a bonus for controlling costs successfully.

One disadvantage of the *baogan* system is that it may encourage employees to forego necessary medi-

cal treatment in order to increase their year-end bonuses. This system is still considered experimental in some localities; there are many variations of it in State enterprises. A few joint ventures have designed a variation of this system, whereby the company pays (for example) 90 percent of all medical costs per year up to a limit of ¥1,000, in addition to 100 percent of major medical expenses. The company may subcontract this liability to a medical insurance program.

Medical insurance FIEs can pay premiums to the People's Insurance Corp. of China (PICC), but these premiums are expensive and the maximum benefits generally cover only 70 percent of the costs. The additional 30 percent must be picked up by the FIE, unless a co-payment plan has been worked out. Because medical costs in China are still relatively low, it may be less expensive to simply pay for actual expenses. There are other insurance programs offered by banks—such as the Bank of Communications in Shanghai—which provide higher levels of medical and accident coverage and may offer FIEs a "package deal" including other kinds of insurance. Competition among banks is growing in large cities, but it is hard to find many options in smaller cities and townships.

FIEs with more than 500 employees may wish to consider a combination of methods to cover potential medical liabilities. For example, the enterprise itself may wish to cover 45 percent of expenses, offer 45 percent coverage through insurance, and have the employee contribute the remaining 10 percent, up to a certain level.

- **Housing**

Most FIES at the start-up stage have no money for the purchase or construction of new housing unless they allocate funding from capital

Finding the Right People

Recruiting employees in China can be an arduous process, due to lack of trained personnel and labor mobility, the influence of children of high-ranking cadres, and new regulations designed to stem the exodus of highly skilled personnel from State enterprises to foreign-invested enterprises (FIEs). Nevertheless, there are methods to help ease the recruiting burden. For instance, examinations should be used to screen all potential employees; this way FIEs have a legitimate basis upon which to base their hiring policies, and can exclude hiring individuals solely on the basis of *guanxi* or pressure from their Chinese partners.

In addition, FIEs may work out arrangements with local technical colleges or universities to provide a certain number of graduates after the February or July graduations. Such arrangements must be worked out months in advance, however; otherwise, the State will assign the students jobs or the students may already have found employment themselves.

For key positions that require going outside the partner's unit—and for wholly foreign-owned enterprises—the FIE must first recruit within the locality of the venture according to the guidelines issued by the local personnel bureau. If a qualified candidate cannot be found locally, the personnel bureau is allowed to support the transfer of someone from another city or locality. In this situation, the number of cadres allowed to be transferred usually rises in direct proportion to the level of foreign investment.

Transferring individuals from other areas is a complex process, involving over 20 approvals from the respective labor and personnel bureaus, public security, the employee's current employer, the employer of the spouse, and other civil authorities controlling residency registration, housing, and food supply allocations. It may take up to two years to complete this process. In the meantime, regulations permit the FIE to "borrow" the individual or allow him or her to wear two hats for a certain period of time, provided there is agreement among all parties concerned. Transferred employees will cost more than local hires.

If a recruit's employer does not wish to support his or her transfer, it may refuse to release the individual's personnel file. This file contains verification of the employee's official civil status, working identity, professional and salary ranks, and political, educational, and work histories. Without this file, the employee risks being cut off from the State enterprise system—and its lifetime welfare benefits—forever. Therefore, failure to obtain the file might clearly deter a recruit from transferring to an FIE.

Even if a recruit is willing to resign without permission—which is possible—his or her employer might record in the personnel file that the individual has been fired (*kaichu*)—a term implying that the employee has violated labor discipline or factory regulations and been expelled from the State system. Such a stigma might not only harm the recruit's future, but could jeopardize his or her children's chances of entering certain schools or obtaining certain types of employment. So, resigning without permission is clearly not for the weak of heart, even though many joint venture general managers don't care whether they receive personnel files or not.

Attempts to control the release of valuable employees and to pressure young recruits to honor State contracts will probably continue for the foreseeable future. A recent article in the *China Daily*, for example, indicated that the Shanghai municipal government was tracking 1,500 employees who had illegally left their units to work for FIEs. Once found, these people will likely be subject to fines or other penalties.

But the picture is not all gloomy. In some areas of China, particularly parts of Fujian and Guangdong provinces, recruiting and transfer regulations are difficult to enforce and officials are lax. In addition, if the impact of recruiting restrictions on FIEs becomes severe enough to warrant external government pressure on Beijing to ease them, the environment could improve. In any case, foreign investors must thoroughly examine the local recruiting environment before committing to a given partner or location. Large cities and more developed coastal zones tend to be the greatest reservoirs of technical and managerial talent. —*Christine Casati*

'How might I get Raiders' tickets in Beijing?'

'By staying at the Hotel New Otani Chang Fu Gong' Our Social Directors are there to help you get the most out of your stay. Whether it means calling our sister hotel in Los Angeles to secure ballgame tickets, or arranging a personalized sightseeing tour of Beijing. They, as with all our staff are ready to assist you by providing that little extra service that makes such a difference.

Of course with traditional Chinese, Japanese and French restaurants, a well-stocked bar, fitness room, sauna and pool, you may not wish to leave the hotel to explore Beijing's other treasures. But isn't it nice to know that you can call upon our friendly advice when you're 6,000 miles from home. And still see Monday night's game.

長富宮飯店

HOTEL NEW OTANI CHANG FU GONG

26 JIANGUOMEN WAI DAJIE, BEIJING, CHINA
☎ (BEIJING)512-5555

FOR RESERVATIONS AND INFORMATION
Toll-free (800) 421-8795 (U.S.A. & Canada) (800) 273-2294 (in CA only)
Los Angeles Tel.: (213) 629-1114 New York Tel.: (212) 308-7491
London Tel.: (071) 731-4231-3 Hong Kong Tel.: (852) 529-2723
Tokyo Tel.: (03) 3265-1111
Reservations are also available through Utell International

LOS ANGELES • HONOLULU • SINGAPORE • TOKYO • OSAKA • SOFIA contributions for this purpose. They are not required to provide new housing up front, but all joint ventures are required by law to contribute to a housing fund for Chinese employees. The amount of contribution varies depending upon local regulations and agreement among respective boards of directors, but generally ranges between 15-20 percent of total wages per month. When enough money has been accumulated in this fund, a decision may be made either to build or to purchase, and a policy of allocating the homes to the most deserving or needy must be worked out. It is very easy for conflicts to arise over use of this funding given the emphasis most Chinese place on improving their living conditions.

FIEs with trade unions will likely find that the union will seek to play a key role in the administration and allocation of new housing. If the general manager decides to delegate this authority to the union, personnel manager, or deputy general manager, he should insist on participating in the policy formulation and on being educated on the criteria for housing allocation.

It is important that the issue of housing be addressed early; leaving it until after a contract has been signed can mean considerable delays and unplanned costs.

To help offset the generally inadequate conditions of Chinese housing some joint ventures pay their employees a small monthly housing subsidy while the fund builds up. Others have implemented rental subsidy arrangements, whereby they rent or buy large blocks of housing and then rent it back to employees, giving them the option to purchase after several years of service. Whatever the arrangement, it is important that the issue of housing be addressed early; leaving it until after a contract has been signed can mean considerable delays and unplanned costs. Two Sino-US joint ventures in China, for example, found it necessary to use their capital funds to purchase apartments for specialized workers from other cities when their joint-venture partners were unable to supply the necessary housing. Both of these ventures now require their employees to pay substantial rent on the apartments, and have to supplement salaries to ease this burden.

FIEs will likely be forced to pay more attention to—and more money for—housing in the future. In a move that may be imitated by other areas, Shanghai has passed new laws that require all local and foreign enterprises—not just joint ventures—to establish a collective housing fund into which both the employer and employee must contribute. A housing subsidy is also required for employees who reside in public housing (*see* p. 30).

• Retirement and unemployment insurance

FIEs are required to provide a retirement allowance according to established local regulations. Benefits include pension, medical expenses, funeral expenses for immediate family members, and an allowance for certain dependents after an employee's death. Premium amounts are based on total monthly wages, which includes basic salary, bonuses, cash subsidies, and overtime pay or other cash payments, less a set deductible. Rates vary from about 20-30 percent depending on the area.

FIEs must also make a payment each month to the local Labor Service Co. or insurance entity set up to handle unemployment insurance in their locality. The payment, 1 percent of the average salary of the area (as determined by local labor authorities), must be paid for each FIE employee. This requirement was developed to relieve the State system of total responsibility for laid-off employees and young people waiting for job assignments.

A slow road

For FIEs and potential investors, the most important factor in effectively tackling human resource issues is to be well-informed on local needs, practices, and regulations. Most administrative management of human resource issues can be effectively delegated to a Chinese manager, as long as that person understands the needs of the foreign manager and is willing to take on local authorities when necessary. Finding a competent industrial accountant who has a thorough knowledge of Chinese accounting methodology in State enterprises as well as some exposure to western accounting procedures can also help a foreign manager learn the funding, taxation, and salary administration systems in China.

Although foreign managers must grapple with seemingly endless roadblocks and controls in hiring and administering Chinese employees, their efforts will likely pay off over the long term. FIEs and the management techniques they bring into China have a positive impact on the thinking of Chinese employees and leaders. If China is to fulfill its Eighth Five-Year Plan, development of a highly skilled and mobile workforce must become a priority. Though progress in this direction may seem slow, FIEs will be the first to benefit from these trends. 完


Coca-Cola
Trade-mark ®
CLASSIC
Can't
Beat
The Real
Thing.
© 1990 The Coca-Cola Company "Coca-Cola" and the Dynamic Ribbon device are trademarks of The Coca-Cola Company

Managing Chinese Employees

Common sense is the best guide available

Paul Epner

There are three key factors for the success of any venture in China: people, people, and people. Based on my experiences as general manager of a diagnostic reagent-manufacturing joint venture in China, the key to success lies not only in finding the right individuals, but in molding them according to your company's needs and then maintaining their effectiveness as the business and work environment change. There is no unique method for managing Chinese employees; common sense and paying attention to a few simple rules will produce the best results.

There are three key factors for the success of any venture in China: people, people, and people.

Recruit the best

The first rule is so basic it is often overlooked: find the right people. This can be a time-consuming task given the shortage of skilled labor in China and the bureaucratic obstacles involved in hiring them, but it cannot be over-emphasized—the people you hire will probably be with you for the life of the venture, so make sure they possess the talents and skills you need. General managers should play an active role in the recruiting and hiring process, as ultimately they will be responsible for grooming the staff into a productive unit. There are several factors to keep in mind when hiring Chinese staff.

• **Avoid taking too many employees from any one source.** If you do, you risk hiring a large number of people with similar bad habits who will tend to reinforce each other. In addition, you inherit the power and social structure of the previous organization, which will compete with the environment you are trying to create in your new venture. Although recruiting from the outside is much slower, involves many bureaucratic hurdles, and may require the joint venture to provide even more training than it would were it hiring from within a single State-owned enterprise, to obtain the benefits of a strong organization it is best to accept these costs. Try to position your investors to tolerate a slow initial growth rate—finding the right people will pay off over the long term.

• **Be patient and flexible.** It will take time to find everyone you need. After two years, some technical positions are still open in my venture (though this is due in part to our location). You can ease your search by distinguishing which positions clearly require previous experience—such as electricians—and accepting applicants with less experience for the others.

When considering potential employees, I focus on intelligence, motivation, work ethic, and curiosity. If I find an unusually good candidate, I hire him even if a suitable position isn't available immediately. In one case, for instance, we found a graduate of Qinghua University who was very bright, had good values, and had a major in biochemistry with a minor in computer science. We didn't have an appropriate opening for him at the time, but convinced him to take a clerical position in our production department. Several months later, we gave him responsibility for computer operations, and have recently moved him to the position of raw material and finished goods planner.

At the same time, you must always be on the alert for the candidate who is looking for a one-way ticket to the West. In technical concerns such as mine, we routinely receive applications from frustrated researchers who think a high-technology joint venture will be a panacea for their problems, but are not really committed to the profit or manufacturing objectives of the business. Although these candidates may possess most of the characteristics sought, their motivation is at odds with the direction of the venture and they will inevitably grow discontented.

If operational needs force you to fill some positions with candidates who are not up to your requirements, downgrade the position; you may want to hire more people at a lower level and keep some of the higher-level duties yourself. Don't get locked into your organization chart—keep focused on your long-term needs.

• **Resist the temptation to overhire.** The Chinese will want your venture to make the biggest possible impact on their labor pool, and will constantly point out the low cost of each

Paul Epner became general manager of Ningbo Abbott Biotechnology Ltd., a joint venture between Abbott Laboratories and three Chinese partners, in 1989. He served as project manager during the venture's negotiation phase, which began in 1985. His previous experience in Abbott includes training, quality assurance auditing, manufacturing management, strategic planning, and marketing.

additional worker. If you don't restrict the number of employees you hire, however, you will encourage low productivity and conflict will result as underutilized departments fight to protect their territory. As these phenomena are already prevalent in China, you will effectively end up reinforcing attitudes that could stay with the company throughout its lifetime. No matter how good your people are, too many will invite poor work habits.

• **Find a confidant.** Ensure that among your local management staff there is one individual who has maturity, experience dealing with the bureaucracy, good people and business instincts, and is completely trustworthy. In my venture our personnel and general affairs manager fits this tall order. He has played an essential role, providing a sanity check for me as I decide how to instill western business practices into our Chinese setting.

Building a nurturing environment

Once you've hired your Chinese staff, you must strive to create a corporate culture that reflects a western management style yet is comfortable for your Chinese staff. Many of your employees will have come to your company for the opportunity to work under western management. It is therefore important that expatriate staff—especially the general manager—serve as appropriate role models. One of the most frequent complaints I hear from employee candidates is that many western general managers are little more than figureheads who delegate daily operations to their Chinese management staff. Although delegating responsibility is important, if the general manager is too far removed from daily operations, the enterprise's corporate culture will be destroyed. General managers should constantly have their hand on the pulse of the company and remember that people are continually learning from their actions. This can best be accomplished by maintaining a flat organizational structure without too many levels from top to bottom. I've found this method enables the general manager to keep his or her imprint throughout the whole company.

If the general manager is too far removed from daily operations, the enterprise's corporate culture will be destroyed.

In order to impart the fundamentals of western management to Chinese employees, the general manager must first understand their cultural milieu. In China, as in other countries with largely homogeneous populations, the government exerts a strong socialistic influence over the populace. In practice, the needs of individuals are sublimated to those of the State. Incentives for individuals—whether to enhance their personal growth or improve their economic wellbeing—are largely absent. Moreover, the penalties sometimes exacted for failure act as a disincentive to innovative or independent thinking, which generally merit few


Shangri-La
Where else.

rewards. Therefore, most Chinese are risk averse. They generally seek to avoid personal responsibility for solving problems, as acceptance of responsibility increases the odds of failure and loss of face.

This aversion to responsibility coexists with the need to establish a sense of individual identity, which in turn accounts for the prevalence of *guanxi* in Chinese society. *Guanxi* connotes both the existence of relationships and the influence or power one can derive from them. Those who wield power—no matter how small—gain identity. To help reduce the significance of *guanxi* and the fear of responsibility among Chinese employees of a joint venture, the general manager must clearly explain what is expected of them and support them as they adjust to a new value system. This can be accomplished in several ways:

• **Provide detailed job descriptions,** but recognize their limitations—it is impossible to cover all aspects of any employee's responsibilities in a job description. Yet many Chinese, in order to limit risk, will use their job description to justify their actions—or their inaction. The general manager, therefore, should view job descriptions as training tools to help staff understand their responsibilities and place in the organization. Expectations of results and accountability should be clearly explained to management staff, as should the inevitability of gaps in job descriptions. The general manager should then have the managers write job descriptions for their personnel, but should stay involved and approve them all. Descriptions imported from home can be good starting points, but they must be localized. Furthermore, the descriptions must be living documents that are updated as needed.

• **Integrate training into your daily operations.** Work with your management team closely from the outset of operations—the enterprise's corporate culture can be established only through actions and contact, not through speeches and memos. Work with your team so that they not only know your thoughts, but how you arrived at them. Introduce the concepts of responsibility, accountability, budget control, forecasting, goal setting, etc. For example, at staff meetings I occasionally insert a training program on the agenda, so that the staff can learn a new concept and simultaneously apply it to real company problems.

• **Stress accountability.** Providing a nurturing environment for risk-taking involves establishing a safety net of checks and balances for big decisions, while letting people make mistakes in areas that do not threaten the staff or operations of the venture. If you want innovation, you must reward creativity and tolerate failure. When your managers make bad decisions, however, work with them privately to do a postmortem. Let them know that the quality of their decisionmaking will be covered in their performance review, as will their willingness to take responsibility. General managers should treat every bad decision as a learning opportunity.

Insistance on accountability for results should be accompanied by insistance on accountability for information. I found much of my staff willing to guess answers to questions; they seemed to equate lack of knowledge with loss of face, so they always gave me an answer whether they knew it or not. It was quite a challenge to find a way to question their answers without signaling a complete loss of trust, but I eventually succeeded by making the situation humorous. Whenever I suspected or caught a person guessing, I used my hand as an imaginary revolver and shot them from the hip. The employees got the message—no one lost face and "hip shooting" decreased.

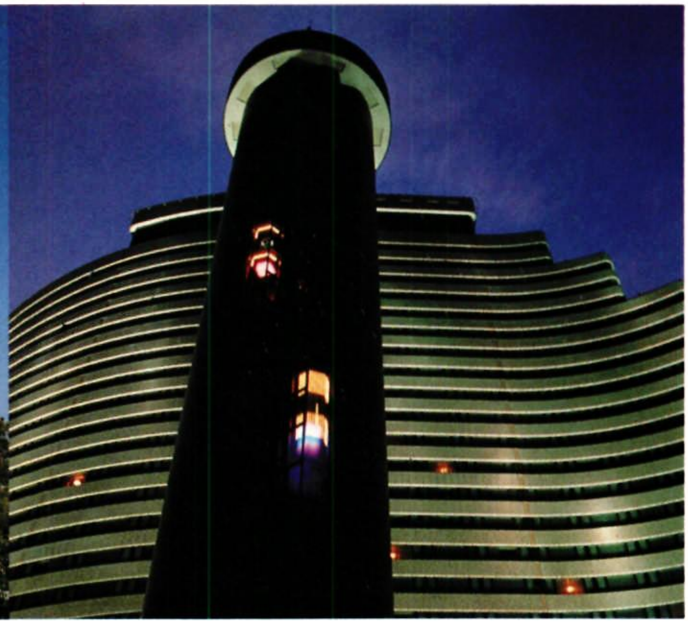
• **Expand time horizons.** Since command economies rarely force people to plan ahead, most Chinese have trouble recognizing future cause and effect relationships—a necessary skill if they are to manage proactively instead of reactively. To address this void, I taught my management staff how to set goals by requiring them to turn in a monthly report indicating what they planned to do in the coming month, what they had done in the past month, and whether they had attained the previous month's objectives. This routine not only got them to anticipate future needs, but the feedback loop helped improve forecasting skills.

Although initially their goals may be largely qualitative, the general manager should take the time to write comments and require managers to reissue their reports until their goals are more quantitative. If the general manager does not provide feedback, the effort will be wasted. After several months of qualitative goals, financial forecasting (sales and expenses) with variance analysis can be added. In my venture, this exercise proved very useful when managers were asked to prepare budgets for the first time. Their forecasts and variance analysis had given them the tools to predict with greater accuracy their future financial requirements.

Dealing with the bureaucracy

Many general managers are overwhelmed by the demands of meeting their head company's expectations while coping in a foreign, at times mysterious, environment. They are afraid they will be accused of being insensitive to the native culture or of being branded as having little respect for the "laws of the land." The result is that they frequently accept bureaucratic requirements that are not in the interest of their venture. All general managers, however, must learn how to deal with the Chinese bureaucracy if they hope to be able to

TWO PARTNERS IN CHINA WHO SPEAK YOUR LANGUAGE.



In China it's reassuring to know that you can be sure of ITT Sheraton. Whether it's at The Great Wall Sheraton Hotel in Beijing or the Sheraton Hua Ting in Shanghai. All the usual home comforts, with all the business and communications facilities you could wish for. What more could you ask for?

THE GREAT WALL SHERATON

- Situated mere minutes from the Business District and the China International Exhibition Centre.
- 24-hour business centre, room service, and in-room IDD.
- A choice of nine restaurants and bars.
- Full meeting and banqueting facilities.
- Health club facilities tailored to the business traveller.

North Donghuan road, Beijing 100026,
Tel: 5005566 Fax: 5001919
Tlx: 22002 GWHBJ CN

SHERATON HUA TING

- A business centre that never closes, offering round-the-clock help and service.
- Our unique 24-hour "Problem? – No problem!" hotline.
- Conference facilities for up to 1,200 people complete with audio-visual and simultaneous translation facilities.
- Choose from tennis, swimming, bowling, gymnasium, sauna, or billiards.

1200 Cao Xi Bei Lu, Shanghai, 200030,
Tel: 4396000, 4391000 Fax: 2550830, 2550719
Tlx: 33589 SHHTH CN

ITT Sheraton
中國喜來登飯店集團
C H I N A
The Natural Choice.

FOR RESERVATIONS CALL ANY ITT SHERATON HOTEL WORLDWIDE OR CALL TOLL-FREE IN THE UNITED STATES AND CANADA 800 325 3535 manage their operations effectively.

Though many foreigners find the workings of China's business environment hard to fathom, the system becomes easier to comprehend if it is viewed in the context of a large corporation—a point first made by Roderick MacLeod. If China's ministries are likened to corporate divisions and the municipal organizations to matrix site management teams, many of China's business practices—parochialism, inter-ministerial hiring difficulties, and power politics—no longer appear so strange. Viewing the bureaucracy in this way makes it easier to operate in the system and challenge it, which is occasionally necessary if the general manager is to be able to control both the venture's business and internal environments.

In my venture, for instance, our accountant wanted either to set a food per diem for business trips or to require receipts for each expense—even if it was only 1 *renminbi*. I suggested that we let the employees report actual expenses but not require receipts for daily meal totals under 10 *renminbi*, both to illustrate our trust and ensure that our employees wouldn't lose money when visiting an expensive city. The accountant indicated that the State auditors wouldn't accept this practice. I asked him to consider which problem we should try to solve—how to ensure our employees were adequately fed without being burdened by ridiculous requirements or how to satisfy the bureaucracy. Although I don't know how, the accountant found a way to pass the audits and establish a policy that demonstrated trust in our employees. The result is improved morale and decreased paperwork.

Stay involved

Your job as general manager is to give your managers the tools to do their jobs without you. Force them to stretch. Don't let them bring problems to your office unless they have recommendations about how to solve them. Be sensitive to their needs and backgrounds, but not to the point that the effectiveness of your business is challenged. Stay involved, but give them room to innovate and make mistakes; work with them behind the scenes so that they can build credibility as western-style managers in front of their subordinates. Your reward will be an efficiently operating business that will enable you to devote your efforts to creating a long-term vision for your venture. 完

The New Housing CRUNCH

Foreign enterprises bear the brunt of Shanghai's innovative housing program

Kathy Chasse Hanna

Lack of housing in China has proved a serious onus to foreign companies seeking to attract skilled workers and managers to their enterprises, as many Chinese are reluctant to give up the accommodations—no matter how meager—provided by their work units. Though Beijing has long discussed strategies to ease the acute housing shortage, Shanghai municipal authorities seem to be taking the lead in devising schemes to improve housing conditions. In April, the Shanghai Housing Office and the Shanghai Foreign Investment Commission promulgated a number of new regulations requiring employers and employees alike to set aside funds for housing. While both local and foreign enterprises are affected, foreign employers' share of the contribution is higher than that of their local counterparts.

The regulations, commonly referred to as "The New Housing Policy," became effective May 1. They require all enterprises to establish a collective reserve fund (CRF) at the savings department of the People's Construction Bank's (PCB) Shanghai branch. Each month, all enterprises must pay a specified amount into the CRF, which may be used by Chinese employees to purchase or improve homes. The accounts will accrue interest at the local savings rate of 3-4 percent. An employee may use his portion at his discretion, and is not required to utilize the funds in the CRF account within any given time frame. Upon

Kathy Chasse Hanna is administrative manager at the Shanghai Centre, where she handles financing, personnel, and administrative issues. She is a graduate of the School of International and Public Affairs at Columbia University and holds masters degrees in international business and Chinese studies.

retirement, the CRF balance can be withdrawn and used however the employee chooses.

The new regulations will probably have little immediate effect on housing in Shanghai, where an estimated 90 percent of the residents are publicly housed in apartments supplied by their work units for a nominal monthly fee. Little private housing is available, and the few new apartments for sale can cost up to ¥100,000. At this price, most private homes are generally purchased on behalf of Shanghai residents by wealthy overseas relatives. However, it is possible for family members to borrow or pool funds to purchase smaller or older apartments costing as little as ¥10,000. In addition, employees may use CRF funds for improvements to housing, though details are still sketchy on how such "improvements" are defined. Before funds can be withdrawn from the PCB, individuals must obtain approval from their work units.

More administrative requirements

Under the regulations, existing enterprises in Shanghai were required to apply for a CRF by April 15. New enterprises must complete these application procedures before hiring staff or issuing payroll. After an enterprise has registered, the bank creates an account for each employee; the employer is responsible for making monthly CRF deposits into this account for each of its employees.

Both foreign-invested enterprises (FIEs) and local companies are required to calculate each employee's entitlement and maintain accurate records of entitlements and withdrawals, and then submit both payment and paperwork to the PCB each month. PCB sells an IBM-compatible software package to aid companies in their recordkeeping. Enterprises using the software may submit a data disk to the PCB every month along with the CRF payment. If this software is not used, two forms entitled "Inventory of CRF Collective Payment" must be submitted each month. If an employee transfers to another FIE or local enterprise, the new employer must assume responsibility for the CRF payments and records.

The CRF contribution for each employee is based on a percentage of the employee's annual salary, with employer and employee each paying roughly 3 percent, for a total of 6 percent each year. After some discussion, municipal authorities decreed that CRF contributions would be calculated using the following formula: **Monthly after-tax income x 57% x 5%**. Both the employer and employee must contribute this amount to the CRF each month, payable by the employer within 5 days after the end of each month. A standard daily fine of 0.5 percent per day of the amount owed is assessed for late payments.

As a result of the new regulations, FIEs will likely see a slight increase in payroll costs, as well as additional overhead costs for administration of CRF accounts.

. . . and more money from FIEs

Just how to calculate the CRF contribution, however, remains a source of some controversy, especially for wholly foreign-owned or cooperative joint ventures, which were not previously subject to any housing contributions. Now, all FIEs are liable for CRF and other housing contributions for their local employees; foreign workers are not covered by the news regulations. Even if a local employee resigns or is terminated, his account must be maintained until he joins a new enterprise. This administrative burden could continue indefinitely, as the FIE must continue reporting the balance of the departed employee's CRF account (along with any withdrawals) until these responsibilities are transferred to another employer.

A further source of discontent among Shanghai's FIEs is that the basis of calculation is different for local and foreign enterprises because of different definitions of salary. Local enterprises typically pay their employees a base salary plus a floating salary, which includes "welfare allowances" for such expenses as hair cuts, bathing, newspapers, magazines, transportation, and meals, as well as bonuses to parents abiding by the single child policy. These allowances increase with seniority, and in many cases effectively double or triple the basic salary. Under the new regulations, such allowances are not considered take-home income and therefore need not be included in the local enterprise's calculation of the CRF contribution.

FIEs, on the other hand, tend to pay a higher lump salary, which includes base salary and all allowances. Whereas local ventures' employees are taxed on base salary alone, FIE employees are taxed on the entire salary package. Thus, joint ventures and their employees are required to make higher CRF contributions than local enterprises and their employees, resulting in higher wage and benefit costs for foreign employers and lower relative take-home pay for their Chinese employees.

As a result of the new regulations, FIEs will likely see a slight increase in payroll costs, as well as additional overhead costs for administration of CRF accounts. A number of foreign enterprises have already expressed their dissatisfaction to the Shanghai Housing Reform Office over the regulations, and the CRF-calculation methods in particular. Given the unequal treatment of local and foreign enterprises, foreign opposition to the regulations will likely continue.

Foreign representative offices, which normally must hire local employees from the Foreign Enterprise Service Corp. (FESCO), may have some protection from the additional payroll expenses, since technically FESCO is the work unit in charge of their local employees. In order for foreign companies to avoid the extra expense of CRF contributions for their FESCO-supplied employees, contracts should be carefully worded to state clearly that CRF administrative and financial responsibilities will be borne by FESCO.

Subsidizing rent increases

In addition to the CRF, the new regulations also stipulate that employers pay a housing subsidy calculated on an after-tax salary basis. This subsidy is designed to offset rent increases which went into effect in March, when monthly rents—previously averaging between ¥4-10 for individuals living in public housing—

doubled across the board. Employers will now pick up much of the rent increase, as the new provisions require them to provide eligible employees with a subsidy calculated at the following rate: **After-tax salary x 57% x 2%**. In order to qualify for the subsidy—which is added onto the employee's take-home pay—employees must submit to the enterprise a valid "Certificate for Staff Renting and Living in Public Housing."

As with the CRF, FIEs must pay more than local enterprises due to the definition of take-home salary. For an FIE employee earning ¥300 a month, for example, the new requirements would translate into an employer CRF contribution of ¥8.55, an employee CRF contribution of the same amount, and a housing subsidy of ¥3.42—for a total cost to the employer of ¥11.97 a month. In comparison, an employee of a local enterprise who earns ¥220 each month (plus a non-taxed allowance of ¥80) would only cost his employer ¥8.78 in CRF and housing subsidy payments each month.

In most cases, cooperative and wholly foreign-owned ventures will likely see a 4 percent net increase in payroll expenses. Some equity joint ventures, however, may apply the 4 percent increase to the 15-20 percent they already contribute to a separate housing fund used by the Chinese joint-venture partner to build housing for the venture's employees. This deduction, however, may only be claimed against employees whose housing is provided by the venture.

Mixed reactions from workers

Employee response to the New Housing Policy tends to be divided by age group. Younger employees seem to view the policy as a net reduction in salary with little immediate benefit; some resent having to pay the CRF contribution and increase in rents, despite the new housing subsidy their employers must provide. Married and older employees, however, seem to view the new regulations as providing an opportunity to improve and possibly own their own homes, and therefore tend to welcome them.

FIE employees generally stand to benefit more from the new regulations than their local counterparts. Since both CRF contributions and housing subsidies are calculated from higher salary figures, FIE employees receive a higher CRF contribution and housing subsidy from their employers. The average FIE employee will experience a net decrease in take-home pay of 2.9 percent because of the mandatory individual contribution to the CRF fund, but employees eligible for the housing subsidy will find that it covers more than half of the decrease in wages.

Passing the buck

Though the New Housing Policy will not solve the immediate housing needs of the city, Shanghai's leaders hope it will help improve housing conditions. Much of the housing burden under the program will be shifted away from the municipality itself—which traditionally relied upon State funds to subsidize rents—to employers, and particularly to FIEs, which will be responsible for a disproportionate share of the new housing payments.

In the long run, however, FIE salaries will be adjusted to reflect the increased costs to foreign employers. There is already pressure from the Shanghai Personnel and Labor Bureau to limit FIE salary levels so that State enterprises can better compete for trained personnel. If not capped by local authorities, FIE wage levels and pay increases will likely be limited by the added burden of CRF payments and housing subsidies. In the future, FIEs may no longer be able to rely on high salaries to attract the best workers.

In the meantime, however, older and more experienced workers may be enticed to transfer to FIEs because of the higher CRF contributions made by foreign employers. These employees, typically reluctant to give up the benefits and security of the "iron rice bowl" offered by local enterprises, may view working for FIEs as an opportunity to obtain better housing. FIEs will benefit from the addition of skilled workers and the training and experience they may pass on to younger employees.

The New Housing Policy, if successful in Shanghai, is likely to spread to other areas in China. If FIEs do not present strong resistance to the calculation methods, other regions with a large number of foreign investors may follow suit and seek to shift a larger portion of the burden of CRF-type housing costs to FIEs. The question remains, however, whether the Shanghai experiment will effectively improve the quality and quantity of local housing. 完

Dumping and China

US dumping cases against China have hit an all-time high—and the tally's still growing

Spencer S. Griffith

In the past 12 months, US companies have filed more dumping cases against China than against any other country. Even Japan, which in recent years has been the target of many US dumping charges, had less dumping cases filed against it—even though Japan's exports to the United States last year were seven times as much as China's. The dramatic increase in the number of cases filed against China poses major challenges for Chinese exporters, US importers, and trade officials on both sides of the Pacific.

Under US antidumping laws, a US industry may file a dumping petition alleging that unfairly priced imports are injuring domestic producers of the same or a competing product. Such petitions are normally filed by private companies, either individually or in groups on behalf of a particular industry. Once a case is filed, the US Department of Commerce (DOC) conducts an investigation to see if the allegations of dumping are correct. At the same time, the International Trade Commission (ITC) determines if the imports are injuring the US industry. Before any tariffs can be imposed for dumping, DOC must find that dumping has occurred, and the ITC must find that the imports have materially injured the US industry.

In a dumping case involving imports from a market economy country, DOC compares the sales price for the merchandise in the United States to the foreign producer's sales price in its home market, third-country markets, or, if such price comparisons are not possible, to the cost to produce the merchandise. In cases

Eleven US dumping cases were filed against China between May 1989-May 1990, compared to only 16 cases filed in the prior 11 years.

involving China and other non-market economies, however, the dumping law mandates that DOC make its determination based on the "factors of production." Typically, calculations of the factors of production involve the amount of labor, energy, and raw materials necessary to produce an appropriate unit (e.g., tonne, pound, gross, etc.) of a particular good. The figures given by the accused producer are then compared to prices of equivalent factors in a surrogate country, which must have a market-based economy at a comparable level of economic development (*see The CBR*, March-April 1991, p. 8).

If the results show that the product was sold in the United States at prices below the cost of production, DOC then assigns a tariff, or "margin," to be charged against subsequent imports of that product. Historically, this process has produced high dumping margins in cases involving China because DOC often does not have accurate or complete information with which to value the factors of production.

Spencer S. Griffith is an attorney with the international law firm of Akin, Gump, Strauss, Hauer & Feld in Washington, DC. He has represented Chinese exporters in a number of trade cases before the DOC.

Open season on China?

The non-market economy provisions of the dumping law have always applied to China—there are no new rules or procedures targeting Chinese exports to the United States. Yet 11 US dumping cases were filed against China between May 1989-May 1990, compared to only 16 cases filed in the prior 11 years. The dramatic rise largely reflects growing trade and political tensions between the two countries, particularly the ballooning US trade deficit with China. According to DOC, US exports to China in 1990 declined 17 percent from 1989 levels, while Chinese exports to the United States rose nearly 28 percent. An April report issued by the US Trade Representative alleges that the US deficit is at least partly due to a number of barriers to the Chinese market, a claim the Chinese deny. The deficit has also exacerbated the debate over renewal of China's Most Favored Nation (MFN) status, as have recent allegations that the Chinese are exporting products made by prison labor.

The rapid rise in Chinese exports and related bilateral trade tensions coincides with the recent downturn in the US economy. In a pattern typical of recessionary periods, US producers faced with shrinking demand at home often feel particularly vulnerable to rising imports from

Results of US Dumping Cases Against Chinese Exports, 1985-91

PRODUCT	DATE INVESTIGATION INITIATED	INITIAL MARGINS/FINDINGS		ADMINISTRATIVE REVIEW OR FINAL DETERMINATION DEADLINE
Natural bristle paint brushes	3/85	Cases terminated because petitioner withdrew requests for review		
Iron construction castings	6/85	All manufacturers/producers/ exporters	11.66%	Final results of administrative review period 1989-90 due in the near future
Steel wire nails	7/85	All manufacturers/producers/ exporters	6.33%	Dumping order subsequently revoked
Candles	9/85	China National Native Produce & Animals By-Products Import/ Export Corp. and all others	54.21%	Margin of 54.21% also established after review
Welded carbon-steel pipes/tubes	12/85	National China Minerals & Metals Import/Export Corp.	17.97%	No administrative review yet requested
Porcelain-on-steel cookingware	12/85	China National Light Industrial Products Import/Export Corp. and all others	66.65%	Review margin of 66.65% established for Clover Enamelware
Tapered roller bearings and parts	9/86	Premier Bearing & Equipment Ltd. and all others	0.97%	Final results of administrative review period 1989-90 due summer '91
Sewn cloth headwear	6/88	Case terminated because no injury found		
Industrial nitrocellulose	10/89	China North Industries Corp. and all others	78.4%	No administrative review yet requested
Heavy forged handtools	5/90	Hammers/sledges Bars/wedges Picks/mattocks Axes/adzes	45.42% 31.76% 50.81% 15.02%	No administrative review yet requested
Sparklers	6/90	Hunan Provincial Firecrackers & Fireworks Import/Export (Holding) Corp. Guangxi Native Produce Import/ Export Corp. Jiangxi Native Produce Import/ Export Corp. All others	93.54% 1.64% 65.78% 75.88%	ITC final determination due summer '91
Sodium sulfur compounds	8/90	All exporters	27.75%	Margin of 27.25% also established after review
Silicon metal	9/90	All exporters	139.49%	ITC final determination due summer '91
Steel wire rope	11/90	All manufacturers/producers/ exporters	24.44%	ITC final determination due summer '91
Electric fans (oscillating and ceiling)	11/90	*Oscillating fans:* Esteem Industries Polary Industrial Corp. Durable Electrical Metal Factory Ltd. Wuxi Electric Fan Factory All others *Ceiling fans:* CEC Electrical Manufacturing Co. Wing Tat Electric Manufacturing Co. Shell Electric Manufacturing Co. Xinhui Electric Motor Factory All others	 0.00% 1.00% 0.00% 19.12% 4.91% 0.37% 4.24% 4.87% 0.00% 4.64%	Final DOC determination due summer '91
Chrome-plated lug nuts	11/90	China National Machinery & Equipment Import/Export Corp. Jiangsu branch & all other manufacturers/ producers/exporters	66.94%	Final DOC determination due summer '91
Shopping carts	1/90	Case terminated because petition withdrawn 1/91		
Tungsten ore concentrates	2/91	DOC preliminary determination due summer '91		
Ball bearings (mounted or unmounted)	3/91	Case terminated because no injury found		
Antimony trioxide	5/91	DOC preliminary determination due summer '91		
Carbon steel butt-weld pipe fittings	6/91	DOC preliminary determination due summer '91		

Source: Akin, Gump, Strauss, Hauer & Feld abroad, and therefore tend to level more antidumping charges. Given the high margins traditionally imposed against Chinese exports and the perception that DOC is unlikely to rule in China's favor in the current political and trade environment, China seems to have become an "easy target" for dumping cases. This claim is borne out by the fact that a disproportionate number of dumping cases are being filed against China rather than against larger trading partners. From May 1989-May 1990, only 7 cases were filed against Japan and 4 against Germany, even though these countries export far more to the United States than China does. For US manufacturers, this is apparently the time to file against Chinese exports.

The fact that China is viewed as an easy target is also demonstrated by the lack of a consistent pattern in the types of imports being attacked (*see* box). Recent cases have been filed against a wide variety of goods, from such basic items as sparklers and hand tools to more strategically important products such as tungsten ore concentrates and antimony trioxide. The only clear trend is that the number of cases is skyrocketing. Cases against Chinese exports have also increased in other countries, albeit at a more moderate pace (*see* p. 40).

Recent cases have been filed against a wide variety of goods, from such basic items as sparklers and hand tools to more strategically important products such as tungsten ore concentrates and antimony trioxide.

Applying stricter standards

Under such circumstances, the outlook for Chinese exporters is less than promising. Given the many trade and political tensions between the United States and China, Chinese exporters can expect to face continued threats to their access to the US market—and still more dumping cases to be filed against them. Moreover, they may also be held to stricter standards than in the past. During the heady days of 1988 and early 1989 when Chinese trade reforms were in full swing, US trade officials seemed to adopt a more lenient stance toward Chinese trade issues. Since DOC enjoys considerable discretion in administering the dumping law—particularly in cases involving non-market economies—such attitudes have important implications.

For instance, DOC can assign separate dumping margins to different Chinese exporters of a particular product, or one weighted-average margin for all trading companies under investigation. In the past, DOC has generally given all exporters the same margin, on the assumption that in a non-market economy the State controls prices in a relatively uniform manner. In a 1988 headwear case, however, DOC ruled for the first time that branch offices which had spun off from national trading companies into independent entities should receive separate dumping margins. This was an important breakthrough for Chinese trade officials because it supported China's position that the branch offices had become independent legal and economic entities competing with each other for sales. Chinese exporters also stood to gain, as the ruling indicated that in the future they might not all be hit with uniformly high margins.

In subsequent cases, however, DOC concluded that such former branch offices were not sufficiently independent from each other and from the former national head offices in Beijing to justify separate margins. But in two recent cases involving sparklers and electric fans, DOC yet again reversed itself and set separate dumping margins for the individual exporters. These cases indicate that separate margins may be possible in future determinations, but only if the Chinese exporters are sufficiently able to document the legal and factual independence of the trading companies. Even if they can prove that the companies are independent, however, separate margins might not be possible if the price of the relevant product is controlled by central authorities, as it is for such strategic goods as steel, oil, and key minerals.

Another area in which the DOC has leeway is in whether to apply market or non-market provisions of the dumping law. Given the lack of progress in China's trade reforms since 1988 and the growing trade and political tensions between the United States and China, however, it is unlikely that Chinese exporters will be able to argue successfully that the more lenient market-economy provisions should be applied to their cases. Still, the impact of foreign investment in certain industries might provide some Chinese exporters with a strong argument.

If foreign investors play a key role in the Chinese industry under investigation, the case can be made that the industry is subject to market forces. In the 1988 headwear case, however, DOC found that the foreign-owned companies—who argued that they operated in the same manner as companies in market economies—were still subject to some degree of State control, and applied the non-market economy dumping rules. As a result, dumping duties were imposed on all factories involved, whether Chinese or foreign-owned. In the recent electric fan case, Hong Kong investors—who are major players in the Chinese industry—argued that since the Chinese government exerts no control over their pricing or production decisions and most of their inputs are sourced from market economies, the electric fan sector should be subject to market-economy dumping rules. DOC again rejected this claim, noting that "all" costs and prices must be subject to market forces before the normal dumping rules can be used. This is an obstacle that may be impossible for any exporter in China to overcome in the foreseeable future.

Too little too late

If China hopes to convince DOC that market forces do indeed play a significant role in the Chinese economy, the inability of Chinese exporters and trade bureaucracies to respond effectively to the rising number of dumping cases must be overcome. Extremely complex and fast moving, dumping cases require the exporters to submit large amounts of detailed information on their sales practices and factors of production within a very short time frame. But the bifurcated nature of

trade in China, in which the trading companies that export goods purchase them from independent factories, prevents Chinese exporters from responding quickly. Furthermore, trading companies sometimes have problems getting the individual factories that manufacture the exported product to submit the required production data. In a number of recent cases, Chinese officials were not able to promptly identify all the Chinese exporters of the product under investigation, and were thus unable to mount an adequate defense. In the sodium thiosulfate and silicon metals cases, the Chinese exporters did not defend themselves at all—with high punitive dumping margins the result.

Both the Chinese embassy in Washington and Chinese government officials in Beijing are working hard to better coordinate China's response to US dumping charges, but it is a herculean task. Perhaps as trading companies become more experienced with these cases, their ability to defend them effectively will improve.

The presence of a dumping margin, no matter how small, creates uncertainty surrounding the future importation of that product.

Lessening risks to US importers

The increase in dumping actions against China threatens not only Chinese exporters, but also the US importers of their products, as they must pay any dumping duties imposed. In the current trade scenario, it is difficult for US importers to discern in advance which products from China may be charged with dumping; however, there are a few warning signals. For instance, a continuous increase in the volume of US imports over several years—particularly if coupled with a decline in the price of the imported product—could lead the competing domestic industry to file a dumping petition. In addition, rumors that a dumping case may be filed often leak out either from the US petitioners or from other importers. If rumors do start, importers might wish to reduce their imports of the product in question or inform their Chinese suppliers that a dumping case might be filed. If current trends continue, foreign-invested enterprises will have to monitor developments carefully, as they likely will be treated no differently than other Chinese exporters.

If a dumping case is filed, importers should notify their Chinese suppliers that their US market share is at risk unless both sides work quickly and cooperatively to demonstrate that dumping did not occur. If the Chinese exporters do not participate in the case, DOC will likely impose the punitive dumping margin alleged by the petitioner. The importers also should consider participating in the ITC's investigation of whether the Chinese imports are injuring the US industry. Importers often have more knowledge of the US industry and market than Chinese exporters, and are therefore able to provide helpful testimony as to why the imports from China are not injuring the US industry.

Although by no means a foolproof method, purchasing goods through Hong Kong brokers rather than from Chinese exporters might be one way for US importers to insulate themselves from high dumping margins. Under US law, if a Chinese exporter sells merchandise to Hong Kong without "knowledge" of the ultimate destination of that merchandise, DOC will calculate the dumping margin upon the basis of the Hong Kong broker's selling price to the United States. Since Hong Kong is a market economy, the broker's price is compared to his selling price in his home market, his selling price to third countries, or the cost to manufacture or acquire the merchandise, including profit. In a number of recent cases using this approach, DOC found relatively small dumping margins for Hong Kong brokers reselling Chinese-made products. Of course, Chinese exporters had to prove to DOC's satisfaction that they did not have knowledge of the destination of the goods sold to the Hong Kong broker. This task, however, is hard to accomplish.

Even if DOC assesses a low final margin, US importers must still weigh the risks of continuing to import the product, as the margin could change in the future. Under the dumping law, DOC conducts annual reviews of the dumping margin and determines the amount of duty actually due on the prior year's imports. However, DOC is free to change the methodology used in calculating the margins from year to year. In prior cases involving China—including a much-publicized case involving construction castings—DOC has changed methodologies and imposed higher margins in the review than in the initial determination. Therefore, the presence of a dumping margin, no matter how small, creates uncertainty surrounding the future importation of that product.

Little relief in sight

The number of dumping cases filed against China is likely to continue to rise, due to steadily increasing Chinese exports and various other trade and political frictions. While an upturn in the US economy might decrease competitive pressures on US producers, it likely would be tempered by the fact that China would still be perceived as an easy target for dumping cases.

Amendment of the non-market economy provision of the dumping law would reduce significantly the margins in future cases against Chinese exports. There is little hope in the current political environment, however, that Congress would be willing to amend the law to the benefit of Chinese exporters. And given the current perception of the direction of trade reforms in China, there is little chance that Chinese exporters will be able to convince DOC to apply the more lenient market-economy provisions of the law to Chinese industries in the near future.

Perhaps the only way the number of dumping cases filed against China will decrease in the short term will be if China loses its MFN status. The higher duties that would then be imposed would likely reduce significantly China's ability to compete in the US market, leaving US producers little reason to file dumping cases. Such a resolution to the problem would, of course, be far more damaging to Chinese exporters—and US importers—than the original dumping problem itself. 完

Protecting Europe's Markets

The number of dumping complaints may be lower than in the United States, but the EEC still has its eye on China

Jacques Buhart and Timothy A. Steinert

The European Economic Community's (EEC) 1979 adoption of antidumping regulations coincided almost exactly with the inauguration of China's "open policy" to promote foreign trade and investment. In the succeeding 12 years China's exports have grown significantly—and EEC manufacturers have wielded this powerful protectionist weapon against them with increasing success. Though the initial targets of EEC dumping proceedings were Japan and South Korea, by the late 1980s momentum had shifted to China and other developing countries whose exports have only recently broken into the EEC market in significant quantities.

From 1979-87, one or two dumping proceedings were typically brought against China each year, with 1982 and 1984 standing out as slight exceptions (*see* table). In 1988, however, the number jumped to 9 cases—or about 13 percent of the total number of proceedings filed that calendar year. In 1989 there were 5 cases brought against China, amounting to about 11 percent of the total, and in 1990 6 cases, or 16 percent of the total.

The high proportion of cases being filed against China is not the only new development in EEC dumping circles; there is also a discernible trend toward proceedings against Chinese consumer goods. Earlier cases, in contrast, were predominantly chemical- and raw material-related. The shift reflects the diversification of China's export industry and the resulting challenge to European manufacturers of similar products.

The high proportion of cases being filed against China is not the only new development in EEC dumping circles; there is also a discernible trend toward proceedings against Chinese consumer goods.

The rules

The EEC's antidumping rules are derived from the 1979 GATT antidumping code. The underlying principles are basically the same as those of US antidumping laws: An antidumping duty may be applied to "any dumped product whose release for free circulation . . . causes injury, [if] the interests of the Community call for Community intervention." A product is considered to have been dumped when its export price to the Community is less than the "normal" value of the like product produced within the EEC. In cases involving China and other non-market economies, normal value ("fair value" in the United States) must be determined on the basis of prices or costs in a third, or "analogue," country, since costs of production are not adequately reflected in domestic prices. The selection of the analogue (referred to as "surrogate" in the United States) country is among the most pivotal decisions made by the European Community Commission (the primary organ responsible for conducting dumping proceedings) in the course of its investigation. The EEC complainant naturally favors selecting an analogue with high domestic prices or costs of production, whereas the Chinese exporter wants the opposite.

The Commission bases its choice of an analogue on at least seven criteria: level of competition within the analogue country, similarity of manufacturing processes with the target country, similarity of access to raw materials, comparable level of development, physical similarity of the products, similarity of applications of the products, and the absence of any other country of production. Despite careful balancing of criteria and the use of statistical adjustments to counteract variables, information from the selected analogue country can only be an approximation of what the target non-market country's normal value really is. Many analysts assert that the use of analogue data gives rise to artificially high dumping duties against non-market economy products.

EEC vs. US procedures

The procedure for prosecuting a dumping case in the EEC is less complex legally and, in practice, more flexible than in the United States (*see* p. 34). An investigation is initiated after the EEC Commission decides that a complaint contains sufficient evidence of foreign dumping and injury to the EEC industry. Complaints may be filed by a member country, a trade association, or by one or more EEC producers representing a majority of the EEC production of the product involved.

When the proceeding is initiated,

Jacques Buhart is a partner in the Brussels and Paris offices of the international law firm Coudert Brothers. Timothy A. Steinert is an associate attorney in Coudert's Beijing office. Coudert Brothers has represented a number of Chinese exporters in EEC dumping proceedings.

the Commission sends questionnaires to producers in the target country, who then normally have 37 days to return the completed form to the Commission. Companies to which the Commission fails to send a questionnaire should ask for one—otherwise, their products could become subject to the highest dumping duties imposed on cooperating companies (the "residual duty") or to duties established by the Commission on the basis of other available facts. In the case of non-market economy companies, only information relating to export prices is requested in the questionnaire. Target-country companies that so request are usually afforded the opportunity to have a hearing before the Commission in order to present their legal arguments and explain any special circumstances.

At the same time the Commission sends out the questionnaires, it selects an analogue country. Assuming that companies in the analogue country cooperate—which is never certain, as these companies are often competitors of the target country companies—the Commission will send a team to verify the information contained in the completed analogue questionnaire. If no cooperating companies can be found in the analogue country, the Commission may decide to use the EEC normal value of the product, which would be the most unfavorable comparison for target-country exports.

Normally, the Commission should finish its investigation, hold any hearings, and establish definitive findings within a year of the initiation of the proceeding, though some cases have lasted 18 months or even longer. The Commission may find that no dumping duties are warranted, that price undertakings are acceptable, or that definitive dumping duties should be imposed.

Dumping duties are imposed in two stages: provisional and definitive. During the provisional stage, importers must provide a bank guarantee to customs officials in lieu of duties. All duties are assessed on either an ad valorem or fixed basis. Provisional dumping duties are imposed for a period of four months, which may be extended by a maximum of two months. During that period, exporters, importers and EEC producers can submit further

For the most part, the specific products examined by EEC dumping proceedings have differed from those targeted in the United States, but to date there have been at least four sets of copycat antidumping actions.

arguments. Definitive findings are established by the Commission, but need the approval of the EEC Council of Ministers (the EEC's legislative body) before final dumping duties can be imposed. The acceptance of undertakings or termination of an investigation without the imposition of duties are decisions normally made by the Commission, but can be referred to the EEC Council of Ministers if so requested by a member country.

At any time prior to the definitive decision—but no later than the deadline given by the Commission to file definitive arguments—the target country companies may enter into price undertakings with the Commission, whereby they agree to raise their export prices to a level acceptable to the Commission in lieu of dumping duties. Though possible under US laws, this form of settlement rarely occurs in the United States. For the exporter to the EEC, the advantage of this approach is that he keeps the profits from any resulting price increase, whereas dumping duties fund Commission coffers. The disadvantage is that the higher prices may cause the exporter to lose market share in the EEC.

Definitive dumping duties and price undertakings remain in force for five years, subject to a review proceeding that may be initiated at any time upon the Commission's initiative, or at the request of an EEC member state. Foreign exporters or EEC producers may also request a review after one year. The practical effect of the definitive duty is that imports from the target country drop precipitously.

EEC dumping provisions leave the Commission with wide discretionary powers, particularly with regard to the comparison of normal value and export price and the calculation of the injury margin. Such discretion leaves the door open for political considerations to affect the outcome of dumping decisions. This aspect of dumping proceedings, at least with regard to China, distinguishes EEC cases from those in the United States, which are driven more by the initiatives of US producers.

Hefty duties on Chinese goods

In cases where definitive duties have been assessed against Chinese firms, the duty levels have been considerable. Overall, ad valorem duties have averaged about 39 percent and flat rate duties ECU 173.85, or approximately $200, expressed in terms of units or weights in accordance with the nature of the product. The EEC generally resorts to flat rate duties when it deems both that the European industry is at critical risk, and that ad valorem duties would be ineffective because exporters would likely decrease prices to compensate. Flat rate duties are more frequently imposed on non-market economies than on market economies.

For the most part, the specific Chinese products examined by EEC dumping proceedings have differed from those targeted in the United States, but to date there have been at

EEC Dumping Proceedings Against China, 1984-90

(Initial and review proceedings)

	1984	1985	1986	1987	1988	1989	1990
Number of cases	2	1	2	2	9*	5	6
% of total	4%	3%	8%	5%	13%*	11%	16%

* These figures cannot be confirmed.
Source: Coudert Brothers

least four sets of copy-cat antidumping actions, where a proceeding has been successfully prosecuted either in the United States or the EEC and then followed up with a proceeding in the other. China, therefore, tends to look at antidumping proceedings in either jurisdiction as a challenge to its markets in both—the two most important markets for the majority of Chinese exports. The bulk of the EEC cases involving China to date have been in the chemical and raw materials sectors, and ad-valorem duties of around 30 percent have been imposed. Slightly higher duties have been imposed upon EEC imports of Chinese consumer goods (46 percent) and textiles (43 percent).

Dealing with FIEs

One reason for the rise in dumping charges against China is that the increasing sophistication and diversification of China's export sector over the last several years has led to significant increases in exports of consumer goods to the EEC. Perhaps the most interesting aspect of this trend is that the Chinese consumer product sector involves industries with significant amounts of foreign investment. In some cases, foreign-invested enterprises (FIEs) have been specifically named as offenders by EEC complainants. In a 1988 proceeding involving small-screen televisions, for instance, two of the five China-based companies that cooperated with the EEC investigation were joint ventures owned in part by Hitachi and Sanyo of Japan. Another case likely to be initiated soon targets China's bicycle exports—the largest exporter of which is a joint venture with Hong Kong and US partners.

These cases have raised questions about how to treat FIEs in dumping investigations. The EEC dumping regulations require that an analogue country be used to determine the normal value for products produced in non-market economies. FIEs, however, argue that they are independent economic entities operating on the profit motive and managed independently of the Chinese government.

Despite the merits of FIE arguments, it is unlikely that EEC member countries will amend their antidumping legislation to allow FIEs to be treated in the same manner as companies in market-economy countries—at least not in the near future. The Commission is, however, examining ways of adjusting the treatment of FIEs to account for their special characteristics and to encourage their development.

The Commission is examining ways of adjusting the treatment of FIEs to account for their special characteristics and to encourage their development.

For instance, while in past proceedings the Commission generally has assessed a single dumping duty on all Chinese exporters of a given product, it now appears to be moving toward a policy of applying separate dumping duties for FIEs that cooperate with the investigation. Instead of determining a weighted average export price based on the combined sales of FIEs and State enterprises—which would result in a single dumping margin—the EEC could calculate company-specific export prices and margins for FIEs. As export prices of FIE products are generally higher than those of State enterprise exports, this approach, if accepted, could ease the burden of dumping duties for FIEs. Though it remains to be seen what this development will mean in practice, it could lead to distinct dumping determinations for each enterprise, based on its export prices. The Commission may even apply separate duties on non-cooperating FIEs by imposing residual duties upon their exports.

China's response

While the Commission has been reevaluating its approach to China—at least as far as FIEs are concerned—the Chinese government and affiliated trade organizations have also adjusted their response to dumping investigations. In the early 1980s, Chinese companies named in EEC dumping investigations largely ignored requests for information. When unfavorable dumping duties were imposed, the Chinese government angrily denounced the EEC for unfair protectionist mistreatment of Chinese exports.

Now, however, the government has increased its efforts to educate domestic companies of the importance of cooperating with dumping investigations and assists them in completing their responses and making their legal defense. The Ministry of Foreign Economic Relations and Trade (MOFERT), for example, has assigned one official each to follow EEC and US antidumping matters, and has encouraged the six industry-wide trade associations to employ foreign counsel on behalf of their members affected by dumping proceedings. This system has generated mixed results to date, as the constituent companies have remained difficult to organize and have been uncooperative even with their own trade associations and MOFERT. As a result, MOFERT has reportedly recently issued internal rules mandating greater power to the trade associations to force individual enterprises to cooperate.

While many Chinese insiders understand that the ostrich approach of ignoring a proceeding in the belief that it will go away is self-defeating, most exporters are still not prepared to go to the trouble and expense of preparing an adequate and complete defense. Individual Chinese exporters tend to have a shortsighted and unsophisticated perspective of their export markets. Many aim for large, short-lived gains without considering long-term market penetration and retention. If one market is lost, they assume that another will appear. The emphasis on earning foreign exchange almost over all else has also contributed to the tendency to maximize export earnings without considering the larger trade picture.

Uncertain prospects

Although it is difficult to document, the recent increase in EEC dumping cases against China is likely due as much to the rising trade frictions between the two sides since the end of the honeymoon period of the early 1980s as to any other single factor. When political and trade relations are strained, dumping charges are more frequently used as a weapon against the other side. Thus, until relations improve significantly, Chinese exporters and EEC importers can expect more dumping cases to be filed. 完

AMCHAM'S CHINA BOOKS

China Commercial Relations Directory 1991/92

A bilingual, English-Chinese, published biennially. This year includes 119 companies. Also includes "statistical anatomy of China" in the form of 18 charts or listings reprinted with permission of leading research publications on China. A "China Travel" chapter which gives information on getting visas, transport connections, American business contacts in the country, and foreign exhibitions calendar. Now in its eighth edition. List price: HK$215/US$32 (HK$175/US$28 for AmCham members).

PRC Business Firms in Hong Kong and Macau

A guide to over 400 firms compiled by a team of US government staff members and business people active in China.

Banking & Finance, Insurance, Oil Companies, Shipping Agents, Travel Services, Publishing and News Media; *Geographic* listings show company connections to national, provincial, urban and Special Economic Zone corporations of China. Also *Parent/Holdings firms* guide. *Products & Services* index and *Chinese-language* company names appendices: essays surveying nature and history of Chinese corporate presence in Hong Kong and Macau; US Commerce Department and Hong Kong Trade Development Council review economic impact and trends of Hong Kong/Macau/China connection. List Price: HK$265/US$38 (HK$215/US$32 for AmCham members).

Hong Kong Connection — Doing Business in Guangdong Province

Comprehensive introduction to how business works and where to get help on the ground in Guangzhou, Special Economic Zones and so-called "Open Areas" like deltas of the three major rivers in the province — the Pearl, Han and Jian. First book in English to offer a simple, straightforward and inexpensive introduction to business conditions in the province based on first-hand research. List price: HK$215/US$32 (HK$175/US$28 for AmCham members).

AMCHAM'S HONG KONG BOOKS

American Foods and Beverages in Hong Kong

American Foods and Beverages in Hong Kong is a directory of over 200 importers, supplemented with chapters describing the American presence in Hong Kong's food business and giving tips on how best to enter this growing market. Published in cooperation with the US Foreign Agricultural Service (FAS) in Hong Kong.

First edition. List price: HK$165/US$27 (HK$135/US$22 for AmCham members).

Returning to Hong Kong — A Home Employment Resource Guide for Graduates of Overseas Universities

A guide to jobs for almost 4,000 graduating Hong Kong students returning from overseas. Distributed free to graduating Hong Kong students at American, Australian and Canadian universities in cooperation with the Institute for International Education (IIE) and International Development Program in Australia. List Price: HK$165/US$27 (HK$135/US$24 for AmCham members).

Doing Business in Today's Hong Kong

Third edition, a compendium of investment analyses covering the key sectors of Hong Kong's export-led economy, authored by active and successful executives in the territory's commercial life. Written by businessmen for businessmen, the authors of which are drawn from the membership of Hong Kong's largest grouping of foreign investors — The American Chamber of Commerce. List price: HK$185/US$29 (HK$165/US$26 to AmCham members).

The American Chamber of Commerce in Hong Kong
Room 1030, Swire House, Chater Road, Central, Hong Kong.
Tel: 5260165 Fax: 8101289 Tlx: 83664 AMCC HX
Mail Address: GPO Box 355, Hong Kong.

Establishing an Office in Hong Kong

1990/91 seventh edition of this annual. Features Hong Kong context reviews of business services as varied as freight forwarding, law and architectural consulting. First-reference book for newcomers. Text material divided into 17 brief chapters intended to raise the right questions and offer the best references supported by six appendices with referrals to key organizations, AmCham business contacts and other sources. Five maps. List price: HK$165/US$27 (HK$135/US$22 for AmCham members).

Who's Who in Hong Kong Communications 1990

312-page book with four major categories: "Who's Who in Hong Kong Communications" carries extended paid listings of 115 companies, providing 65 categories of products & services. "Communications in the Hong Kong Context" includes 11 articles reviewing themes in advertising, public relations, publishing, desktop publishing equipment, and printing. "Professional Support in Hong Kong" includes a miscellany of 10 different lists/key documents. "Quick Contact File" is a telephone finders' guide to about 4,400 companies in Hong Kong, divided into 36 categories. List price: HK$215/US$33 (HK$175/US$29 for AmCham members).

Hong Kong Electronics Handbook/Directory

Hong Kong Electronics Handbook/Directory is divided into three major sections. The first introduces the manufacturing side of the industry with articles from people who know it.

"Sourcing guide" directory of 133 electronics companies describes their products and services, indicates if they do original equipment manufacturing (OEM), describes the nature of their manufacturing in China if any, and names their subsidiaries in Hong Kong, China and the region.

The last section of the book is a guide to Hong Kong's electronics services sector. It includes 10 different articles by authors active in each sector covered. List price: HK$215/US$32 (HK$175/US$28 for AmCham members).

Living in Hong Kong 1989/90

1989 seventh edition guide for newcomers to the region. First published in 1973. Divided into 15 chapters covering topics as Living and Health, Communications Services, Legal Information, Schools, Leisure Activities and even a chapter on the best way to leave. List price: HK$165/US$27 (HK$135/US$24 for AmCham members).

AmCham Members Directory 1990/91

Over 500-page book contains four major sections, including a guide to over 600 American private or government organizations concerned with US business development in Asia-Pacific. Lists 2,570 members from 1,079 companies. List price: HK$1,170/US$162 (HK$770/US$112 for AmCham members)

Hong Kong's Training Services 1991

Extended profiles of 31 major training providers in Hong Kong and nine major types of training surveyed, also described are 17 educational institutions and seven "in-house" programs run by specific companies or organizations. List price: HK$175/US$25 (HK$145/US$22 for AmCham members).

(Quoted prices include local/overseas postage).

To: American Chamber of Commerce in Hong Kong, G P O Box 355, Hong Kong

ORDER FORM

Name: Mr/Ms ____________
(Please Print)

Title: ____________

Company: ____________

____

Address: ____________

____

Tel: ____________

Fax: ____________

Tlx: ____________

Date: ____________

Enclosed is my ☐ check/bank draft or

☐ pay by credit card for

________ Copies of ____________

Total HK$ ____________

Signature: ____________
(not valid unless signed)

CHARGE TO MY ☐ American Express ☐ Visa ☐ Master Card ☐ Diners Club

Card Issuing Bank ____________

Card No. ____________

Expiry Date: ____________

MORE INFORMATION

Please send me more information of the following forthcoming title(s):

☐ Hong Kong Information Technology Handbook

☐ Regional Entrepot — HK/PacRim Trade Directory

☐ Hong Kong/Princeton Review Guide

Annual Meeting Surveys Trade Prospects

Eager to discuss such pressing issues as the fate of China's Most Favored Nation (MFN) status, over 120 representatives of member companies attended the Council's eighteenth annual meeting in Washington, DC, on June 5. The theme of the meeting, as encapsulated in the opening remarks of Paul W. Van Orden, outgoing chairman of the Council's board of directors, was to discuss the impact of proposed legislative and administrative changes on US-China business relations and how the newly restructured Council will meet these challenges.

Van Orden began the meeting with a summary of the Council's new priorities: to provide hard business intelligence through *The China Business Review,* the members-only *China Market Intelligence*, and the new electronic bulletin board, *On! USCBC*; to communicate with the administration and Congress the need for unimpeded access by US business to trade and investment opportunities in China; to maintain the Council's long-standing role with Chinese government officials as the voice of the US business community; and to provide a support network for US businesses new to the China market. The chairman also expressed his thanks to retiring Council President Roger W. Sullivan and the rest of the Council staff for their efforts on behalf of the membership, and extended a warm welcome to incoming President Donald M. Anderson. The remainder of the day was spent discussing issues confronting US companies with business interests in China.

The MFN threat

The first guest speaker, Marcia E. Miller, a trade specialist and staff member of the Senate Committee on Finance, brought members up-to-date on the status of the MFN debate on Capitol Hill. Miller provided an overview of the procedural issues affecting MFN, and pointed out that the Senate, which never voted on MFN last year, is only now beginning to really consider the issue. Under the "fast track" rules implemented by Congress last year, resolutions of disapproval introduced in the Senate will proceed to the Senate floor after 30 days, even if the committee has not yet acted. Miller predicted that Senator Bentsen, who had not yet taken a stand on the issue, would schedule Finance Committee hearings before the July 4 recess.

Dismantling market barriers

The second morning speaker, Joseph A. Massey, discussed the US government's growing list of trade grievances with China. Massey, assistant US Trade Representative for Japan and China, termed the $1 billion decline in US exports to China in 1990 "intolerable," particularly in light of increasing barriers to the China market. These barriers include inadequate protection of intellectual property, lack of transparency, and a number of Chinese government-sponsored policies that inhibit the access of US companies to the Chinese market. In April, the office of the US Trade Representative (USTR) designated China a priority country under Special 301 terms of the 1988 Omnibus Trade Act for its lack of progress on intellectual property protection, and is currently conducting a six-month investigation of China's copyright and patent provisions. At the end of this period, USTR will decide either to continue investigating for another three months or to impose prohibitive tariffs (100 percent) against Chinese exports.

Seeking positive change

After a reception and lunch with distinguished guests from the Chinese embassy, US government, and Hong Kong Economic and Trade Office, members heard Ambassador James R. Lilley, who recently returned from a two-year posting in Beijing, speak of the price Beijing has paid for Tiananmen: alienation of China's students and intellectuals; international condemnation; and economic slowdown. Lilley stressed that the United States' goal should be to encourage Beijing to act according to established international rules regarding trade, human rights, and arms control. He also noted that he had detected positive change in official Chinese statements before leaving the country in May, and encouraged the Chinese to back up their words with concrete actions.

Talking specifics

The afternoon was devoted to three roundtables designed to enable participants to share their thoughts on issues of concern. At the

Legal Committee Votes on Officers

The Council's Legal Committee held its annual election of officers on June 5. Lucille A. Barale of Coudert Brothers was elected to the post of committee chairman, while Eugene Theroux of Baker & McKenzie was chosen vice chairman. Helena Kolenda of Paul, Weiss, Rifkind, Wharton & Garrison was elected secretary/treasurer.

New Board Members

Jonathan M. Schofield, president of United Technologies International Corp., was unanimously elected chairman of the Council's board of directors at the annual meeting on June 5. Three new members were also voted in: Gerald M. Glenn, group president, Fluor Daniel, Inc.; William R. Pearce, vice chairman of the board, Cargill, Inc.; and Eugene Theroux, partner, Baker & McKenzie. In addition, five directors were re-elected to second terms.

roundtable on MFN, attendees shared information on how best to lobby Congress and debated the likelihood of Congress' passing a resolution of disapproval. Participants also traded insight and strategies for the veto fight that would certainly follow.

Other attendees met to discuss key problems of investors in China, such as taxation, housing, local bureaucratic attitudes, and repatriation of profits. Some participants noted the merits of doing business in Shanghai, where local bureaucratic problems currently seem less onerous than in other regions. Others cited the relative success of consumer product ventures, even though such enterprises are not given priority investment status by Beijing.

Participants at the 301 roundtable, after discussing the morning presentation, decided that member companies should work with the Council to present USTR a white paper on market barriers. The paper would contain examples and case studies of company experiences/problems with such issues as lack of transparency, and could be used by USTR in its negotiations with the Chinese. It was also suggested that the Council expand the patent working group into a larger intellectual property protection forum that might follow up on the 1989 patent delegation to China.

Council Welcomes Visiting Delegations

The Council met with several important delegations in May to brief them on the status of US-China commercial relations. The first group, a buying mission composed of representatives from China's key ministries and industrial sectors, was hosted by the Council and spent about two weeks in the United States meeting with government officials and private companies. Led by Vice Minister of the State Planning Commission Gan Ziyu, the delegation reportedly spent about $1.2 billion on such goods as grain, cotton, chemical fertilizer, timber, and aircraft.

Shortly after the buying mission left Washington, the Council hosted a luncheon for China International Trust and Investment Corp. (CITIC) Chairman Rong Yiren, who was in the United States to meet with the International Finance Corp. of the World Bank. Rong expressed his appreciation to the Council for its efforts on behalf of MFN, and claimed that he is optimistic about the future of Sino-American commercial relations.

On May 22, the Council met with a 10-member delegation from the Hong Kong General Chamber of Commerce to exchange notes on the MFN issue. Led by Paul Cheng, director of Inchcape Pacific Ltd., the delegation spent several days on Capitol Hill discussing the impact revocation of China's MFN status would have on Hong Kong. Before returning to Hong Kong, the delegation solicited the Council's analysis of the situation in order to help plan its future lobbying activities.

New Chairman of the Council Board of Directors Jonathan M. Schofield toasts CITIC Chairman Rong Yiren during a Council luncheon in Rong's honor.

中外貿易 China Business

David Stifel

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 average rate quoted in *International Financial Statistics (IMF)*.

US-China Business Council member firms can contact the library to obtain a copy of news sources and other available background information concerning the business arrangements appearing below. Moreover, 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 Business Information Center at The US-China Business Council.

中外贸易

SALES AND INVESTMENT THROUGH
May 15, 1991

Foreign party/Chinese party
Arrangement, value, and date reported

Agricultural Commodities

Investments in China

Ciba-Geigy Corp. (Switzerland)/China General Corp. of Animal Husbandry Industry, Shanghai Institute of Animal Parasitology, and Shanghai Wusi Farm Animal Health Product Co.
Began construction of Shanghai Ciba-Geigy Animal Health Co. Ltd. joint venture. $19.8 million (SFr13.8 million). 4/91.

China Animal Products Trading Co. Ltd. (US)/NA
Established Sino-US Beef Cattle Co. Ltd. joint venture to breed cattle and sheep. $21.39 million. 2/91.

Other

Midland Bank (UK)/Agricultural Bank of China
Extended British government loan for chicken farms in South China. 4/91.

Abbreviations used throughout text: BOC: Bank of China; CAAC: Civil Aviation Administration of China; CAIEC: China National Automotive Import-Export Corp.; CATIC: China National Aero-Technology Import-Export Corp.; CCTV: China Central Television; CEIEC: China Electronic Import-Export Corp.; CEROILFOODS: China National Cereals, Oil, and Foodstuffs Import-Export Corp.; CHINALIGHT: China National Light Industrial Products Import-Export Corp.; CHINAPACK: China National Packaging Import-Export Corp.; CHINATEX: China National Textiles Import-Export Corp.; CHINATUHSU: China National Native Produce and Byproducts Import-Export Corp.; CITIC: China International Trust and Investment Corp.; CITS: China International Travel Service; CMC: China National Machinery Import-Export Corp.; CNCCC: China National Chemical Construction Co.; CNOOC: China National Offshore Oil Corp.; CTIEC: China National Technical Import-Export Corp.; ETDZ: Economic Technological Development Zone; ICBC: Industrial and Commercial Bank of China; INSTRIMPEX: China National Instruments Import-Export Corp.; MLI: Ministry of Light Industry; MMEI: Ministry of Machinery and Electronics Industry; MOE: Ministry of Energy; MOTI: Ministry of Textile Industry; MPT: Ministry of Posts and Telecommunications; NA: Not Available; NDSTIC: National Defense, Science, Technology, and Industry Commission; NORINCO: China North Industries Corp.; SEZ: Special Economic Zone; SINOCHEM: China National Chemicals Import-Export Corp.; SINOPEC: China National Petrochemical Corp.; SINOTRANS: China National Foreign Trade Transportation Corp.; SITCO: Shanghai Investment and Trust Corp.; SPC: State Planning Commission.

Agricultural Technology

Other

Canadian Potassium and Phosphorous Research Institute (Canada)/Research Institute of Soil and Fertilizers of Chinese Academy of Agricultural Sciences
Opened joint research center in Beijing. 2/91.

Banking and Finance

Investments in China

Societe Generale, a subsidiary of Generale S.A. Ste. (France)/People's Construction Bank of China and Shanghai Municipal Investment and Trust Co.
Established Associated Finance of Shanghai Ltd. joint venture in Shanghai. $20 million (FR:50%-PRC:50%). 2/91.

Other

Bank of America International, a subsidiary of BankAmerica Corp. (US); Banque Indosuez S.A. (France); Citibank International, a subsidiary of Citicorp (US); Credit Lyonnais S.A. (France); The Industrial Bank of Japan Ltd. (Japan); and Sanwa Bank Ltd. (Japan)
Opened branches in Shanghai. 3/91.

Citibank International, a subsidiary of Citicorp (US)
Opened representative office in Xiamen, Fujian Province. 3/91.

Standard Chartered Bank (UK)
Opened branch office at Tower Hotel in Haikou, Hainan Province. 3/91.

Chemicals and Petrochemicals

China's Imports

Rauma Repola Oy (Finland)
Sold sulphuric acid condensing equipment to factory in Nanjing under Finnish government soft loan. $4.23 million (FM17 million). 4/91.

NA (US)/Ministry of Chemical Industry
Sold organic amine-production equipment for plant in Zibo, Shandong Province. 4/91.

Investments in China

L'Air Liquide S.A. (France)
Established Liquid Air Shanghai wholly foreign-owned venture to produce nitrogen, argon gas, hydrogen, oxygen, and specialty gases, in Caohejing ETDZ. $10 million. 2/91.

Construction Materials and Equipment

China's Imports

Philips China Ltd. (Hong Kong), a subsidiary of Philips N.V. (Netherlands)
Contracted to design and install floodlights for Shanxi Stadium, Taiyuan, Shanxi Province. $256,000 (HK$2 million). 5/91

Investments in China

Aso Cement Co. (Japan) and Nissho Iwai Corp. (Japan)/NA
Established Shenzhen Da Peng Cement Co. joint venture. $5.32 million (JP:37.6%-PRC:62.4%). 4/91.

Other

Banca Nazionale Del Lavoro (Italy)/Shanghai Yinhua Tableware Factory
Extended loan to finance import of Italian carpentry equipment. $3.7 million. 3/91.

Consumer Goods

Investments in China

Hong Kong-Shanghai Industrial Co. Ltd. (Hong Kong)/Bicycle Corp.
Established joint venture to produce bicycles in Pudong. 5/91.

Champion Village Investment Co. (Hong Kong)/Beijing Dabei Photo Studio
Established North Champion Tourist Photo Service Co. Ltd. joint venture in Beijing. $350,000. 3/91.

Rothmans International Tobacco Corp. (UK)/Shandong Provincial Tobacco Co., a subsidiary of China National Tobacco Corp.
Established joint venture to produce cigarettes in Jinan, Shandong Province. $5 million. 3/91.

S.C. Johnson & Son Inc. (US)/Shanghai Household Chemicals Plant
Began construction of Shanghai Ruby Johnson Cosmetics Co. joint venture in Shanghai. $45 million. 2/91.

Susan's World Cosmetology Co. (US)/Beijing Sports Service Center
Established Beijing Susan's Fashion Co. Ltd. beauty parlor joint venture. $300,000. 3/91.

Electronics and Computer Software

China's Imports

Compagnie des Machines Bull (France)/Telecommunications Bureau, Hunan Province
Sold five DPS7000/A1 medium-sized computers and five high-speed Mathilde MP6090.2 non-impact printers under French government loan. $1.72 million (FFr8.8 million). 3/91.

NCR Corp. (US)/Industrial and Commercial Bank of China
Sold 49 ATMs and nine Tower 32/650 computers. $2.7 million. 3/91.

Investments in China

Japan International Development Organization (JAIDO) (Japan)/Technological Science Development Corp., an affiliate of Fudan University, Shanghai
Established Shanghai Sino-Japanese Software Co. Ltd. joint venture to train computer systems engineers. $3 million (JP:66.7%-PRC:33.3%). 4/91.

Juko Industrial Co. Ltd. (Hong Kong)/Beijing Pioneer Group Corp. and Huizhou Electronic Telecommunication Corp.
Established Souhua (Huizhou) Electronic Industrial Co. Ltd. joint venture to produce computer chips and integrated circuits. $20 million (HK:85%-PRC:15%). 4/91.

Great Wall Electronics International (Hong Kong)
Developing industrial estate to manufacture electronics products in Huizhou, Guangdong Province. $12.8 million. 3/91.

Matsushita Electric Industrial Co. Ltd. (Japan)
Opened additional service and maintenance centers. 3/91.

Siemens AG (Germany)
Established technical training center in Beijing. $13.27 million (DM20 million). 2/91.

Toshiba Corp. (Japan)
Opened five additional service and maintenance centers. 3/91.

Other

Compagnies des Machines Bull (France)/Stone Corp.
Signed contract to jointly promote DPX/2 computer using Stone Chinese character products. 2/91.

Food and Food Processing

China's Imports

Imeca S.A. (France)/China National Machinery Import-Export Corp.
Sold grape and apple juice concentrate production line under World Bank Coastal Lands Development Project. $1.4 million. 1/91.

Investments in China

Nestle S.A. (Switzerland)/Dongguan Sugar, Tobacco, and Wine Co.
Established instant coffee joint venture in Dongguan, Guangdong Province. $40 million (SW:60%-PRC:40%). 4/91.

NA (US)/NA
Established Summer Beverage Co. Ltd. joint venture to produce mineral water in Qinhuangdao, Hebei Province. $1.5 million. 2/91.

China's Investments Abroad

Vladimir City, USSR/Chongqing City, Sichuan Province
Established Tianfu Cola-Vladimir Food & Drink Co. Ltd. joint venture in Vladimir. $600,000.

Foreign Assistance

To China

Belgium
Extended interest-free loans. $6.4 million (BFr200 million). 4/91.

Germany
Provided financial assistance. $145.7 million (DM220 million). 4/91.

Japan Foundation for Shipbuilding Advancement (Japan)
Established Sasakawa Education Fund to assist M.A. and Ph.D. candidates of social sciences at Beijing, Fudan, Nanjing, Jilin, and Lanzhou universities. $5 million. 4/91.

United Nations Development Program (UNDP)
Provided technical assistance grant for human resource development project. $4.5 million. 3/91.

International Development Association (IDA) of the World Bank Group
Approved Liaoning Urban Infrastructure Project to improve management of water resources and urban transportation in Liaoning Province. $77.8 million. 3/91.

World Bank
Extended additional loan for development of red soil areas in Jiangxi Province. $18.9 million (¥100 million). 3/91.

World Bank
Approved loan to finance modernization of quarantine stations for imported and exported animals and plants. $7 million. 2/91.

From China

USSR
Received commodity loan from China. $786 million (SFr1 billion). 3/91.

Leasing and Insurance

Other

ManuLife Financial Corp., a subsidiary of Manufacturers Life Insurance Co. (Canada)/People's Insurance Co. of China (PICC)
Established training program in Hong Kong for PICC employees. 4/91.

Multilateral Investment Guarantee Agency (MIGA) of the World Bank Group
Began insuring private foreign investment against political risk in China. 4/91.

Machinery and Machine Tools

China's Imports

Canada
Extending mixed loans to finance purchase of Canadian water supply equipment. $5/85 million. 4/91.

Unicorn Industries (UK)/China National Technical Import-Export Corp.
Sold cubic boron nitride and diamond tools under World Bank Shanghai Machine Tools Project. $1.9 million. 4/91.

Medical Supplies and Equipment

China's Imports

All-Union Institute of Micro-Organism Genetics and Breeding (USSR)/Tianjin Amino-Acid Co.
Sold L-threonine amino acid. $250,000. 4/91.

Investments in China

Hewlett-Packard Co. (US)/Qingdao Electronics Medical Instruments Factory
Established Qingdao Zhonghui Medical Products Co. Ltd. joint venture to assemble and test HP78352C clinical monitoring instruments in Qingdao. 4/91.

China's Investments Abroad

Moscow Mancher Industrial and Commercial Corp. (USSR) and Dialogue Corp. (USSR)/Guangyuan Municipal Hospital of Traditional Chinese Medicine
Established joint venture to set up two traditional Chinese medicine centers in Moscow. 3/91.

NA (Italy)/Ministry of Public Health
Opened Medicina Traditionale Chinese joint venture in Rome. 3/91.

Other

United Nations World Health Organization (WHO)
Provided grant to finance AIDS research. $800,000.

Petroleum and Natural Gas

Investments in China

British Petroleum Co. PLC (UK)/Shenzhen Kong Gang Aviation Oil Co.
Established Shenzhen Cheng Yuan Aviation Oil Co. refueling joint venture to service new Shenzhen international airport. 4/91.

BP Exploration Operating Co. Ltd., a subsidiary of British Petroleum Co. PLC (UK)/CNOOC
Signed oil exploration agreement for 50/20 zone south of Guangdong Province. 4/91.

Statoil Corp. (Norway)/CNOOC
Signed contract to develop 40/01 zone south of Hainan Province. 4/91.

Other

Japan National Oil Corp. (Japan)/China National Petroleum and Natural Gas Corp.
Conducting joint geological survey for crude oil and natural gas in Talimu Pendi in western China. 4/91.

Royal Dutch Shell Group (Netherlands)/CNOOC
Received SPC agreement to proceed with feasibility study for oil refinery and ethylene plant joint venture in Huizhou, Guangdong Province. $2.5 billion (ND:50%-PRC:50%). 3/91.

Pharmaceuticals

Investments in China

Shenye Yihua Co. Ltd. (Hong Kong)/Kaifeng Pharmaceutical Factory and Zhaoqing No.2 Chemical Raw Material Co.
Established Kaifeng Sanhe Medicine Preparations Co. Ltd. to produce injection ampules in Henan Province. $3.2 million (¥17 million). 4/91.

SmithKline Beecham Corp. (US) and NA (UK)/Tianjin Pharmaceutical Administration and Wuhan University
Established joint venture to produce L-cystine. $1.3 million (¥7 million). 4/91.

Power Plants

China's Imports

Systems Integrated Co. (US)
Sold power station automation-system computer under World Bank Yantan Hydroelectric Power Project. $2 million. 3/91.

Other

NA (France)/BOC
Extended export credits and commercial loans for construction of power station in Zhuhai SEZ. $74 million (FFr380 million). 4/91.

Property Management and Development

Investments in China

Hong Kong and Macao International Investment Co. (Hong Kong and Macao)/State Science and Technology Commission, Henan Provincial Government, and Sichuan Provincial Government
Established Hainan International Science and Technology Industrial Garden in Hong Kong and Macao Industrial Zone, Hainan Province. $18.9 milion (¥100 million). 3/91.

Megaway Investments Holdings (Hong Kong)/Shanghai Railway
Developing business mini-center in Shanghai railway station. $385,000 (HK$3 million). 3/91.

Yaohan Departmentstore Co. Ltd. (Japan)/Guangzhou City Government
Concluded agreement to build department store. $11.2 million (J¥1.5 billion). 4/91.

Ships and Shipping

Other

Rickmers-Linie KG, a subsidiary of Hapag-Lloyd AG (Germany)
Opened representative office in Dalian, Liaoning Province. 4/91.

NA (Indonesia)/NA
Established joint shipping line between Shanghai and Jakarta and Asurabaja. 2/91.

Textiles

Investments in China

Chung Hsing Textile Co. (Taiwan)/Shanghai No. 9 Knitting Mill
Established Three Guns Brand Knitting Co. joint venture to produce underwear primarily for export. $2.5 million (TW:65%-PRC:35%). 4/91.

Hoyiyamagoe Co. Ltd. (Japan)/NA
Began construction of Yulin Cashmere Sweater Factory joint venture in Yulin, Shaanxi Province. $3.78 million (¥20 million). 2/91.

Transportation

China's Imports

The Boeing Co. (US)/CAAC
Confirmed order for three 737-300 aircraft. $110 million. 5/91.

Ernst Komrowski and Co. (Germany)/Ministry of Railways
Sold metal plate-shearing production line and crankshaft grinding machine under World Bank Fourth Railway Project. $3.2 million. 4/91.

USSR/China United Airlines
Sold two TU-154 commercial aircraft. $30.3 million (¥160 million). 4/91.

General Electric Co. (GEC) (UK), a subsidiary of General Electric Co. (US)/China Eastern Airlines
Confirmed order for jet engines for four Airbus aircraft. $90 million. 2/91.

Nissan Motor Corp. (Japan)/Ministry of Public Health
Sold ambulances under World Bank Rural Health and Preventative Medicine Project. $1.2 million. 1/91.

Investments in China

ACE Corp. (South Korea) and Lucky-Goldstar Group (South Korea)/Cangzhou City Chemical Industrial and Machinery Plant
Began construction of Jidongsai International Container Corp. joint venture to begin operations in January 1992. $24 million. 4/91.

NA (South Korea)/Changzhou Chemical Machinery Plant
Established joint venture to manufacture cargo containers in Changzhou, Hebei Province. $20.65 million (SK:25%-PRC:75%). 2/91.

Other

McDonnell Douglas Corp. (US)/CAAC and SAIC
Agreed to jointly assemble an additional five MD-82 and five MD-83 aircraft. 5/91.

Sembawang Holdings (Pte.) Ltd. (Singapore)/Hainan Airlines
Established commercial air-shuttle service between Haikou and Sanya using three Cessna Caravan II aircraft. ($6 million). 4/91.

World Bank
Approved loans to develop highway system in Guangdong Province. $1.4 billion. 5/91.

Hopewell Holdings Ltd. (Hong Kong)
Received financing from consortium of 29 international banks to construct Hong Kong-Guangzhou highway. $800 million. 4/91.

World Bank
Approved loan for transport project in Jiangsu Province. $153 million. 4/91.

Aeroflot (USSR)/CAAC
Established joint air route between Irkusk and Shenyang, Liaoning Province. 3/91.

Miscellaneous

Investments in China

United Sembawang Enterprises Pte. (Singapore) and Central Package Group (Singapore)/Shanghai Foreign Trade Co. and Shanghai Light Industrial Products Import-Export Corp.
Established United Shanghai Enterprises Pte. joint venture to provide import-export services. $2.83 million (S$5 million) (SP:51%-PRC:49%). 2/91.

THE US–CHINA BUSINESS COUNCIL

WASHINGTON STAFF
President: Donald M. Anderson

China Business Review: Pamela Baldinger
China Business Forum: Madelyn C. Ross
Management and Budget: Richard L. Peterman

Address
1818 N Street, NW, Suite 500
Washington, DC 20036 USA
Telephone: (202) 429–0340
Fax: (202) 775-2476
Telex: 64517 NCUSCTUW

BEIJING OFFICE
Director for China Operations: John Frisbie
CITIC Building, Suite 22C
Telephone: 5002255, ext. 2263, 2266
Cable: USCHINTRAD
Telex: 22637 NCPEKCN
Fax: (861) 512-5854

US GOVERNMENT OFFICES IN CHINA

EMBASSY
Ambassador: J. Stapleton Roy
Deputy Chief of Mission: Lynn B. Pascoe
Agricultural Counselor: Edwin A. Bauer
Commercial Counselor: Timothy P. Stratford
Commercial Officers: Dennis Barnes, Alice Davenport, Jeffrey Willis, John Muehlke, Jr.
Economic Counselor: Steven A. Schlaikjer
3 Xiushui Bei Jie
Jianguomenwai, Beijing
Telephone: (861) 532–3831
Telex: 22701 AMEMB CN
Fax: (861) 532-3297

CHENGDU CONSULATE GENERAL
Consul General: Marshall P. Adair
Deputy Principal Officer: Kenneth Jarrett
Jinjiang Hotel
180 Renmin Road
Chengdu, Sichuan
Telephone: (8628) 24481
Telex: 60128 ACGCH CN

GUANGZHOU CONSULATE GENERAL
Consul General: Dennis Harter
Deputy Principal Officer/Economic Section Chief: John J. Tkacik, Jr.
Agricultural Officer: Philip A. Shul
Commercial Officers: Todd N. Thurwachter, Jonathan Marks
Economic Officer: Theodore Mann
Dongfang Hotel
Telephone: (8620) 669–900
Telex: 44439 GZDFH CN
Attn: USA Consulate
Fax: (8620) 66-6409

SHANGHAI CONSULATE GENERAL
Consul General: Frank P. Wardlaw
Political/Economic Section Chief: John J. Norris
Commercial Section Chief: Nora Sun
1469 Huaihai Zhong Lu
Telephone: (8621) 336–880
Telex: 33383 USCG CN
Fax: (8621) 433-4122

SHENYANG CONSULATE GENERAL
Consul General: Morton J. Holbrook, III
Economic/Commercial Officer: Paul Stephenson
No. 40, Lane 4, Section 5
Sanjing St, Heping District
Shenyang, Liaoning
Telephone: (8624) 290038
Telex: 80011 AMCS CN
Fax: (8624) 29-0074

HONG KONG CONSULATE GENERAL
Consul General: Richard Williams
Deputy Principal Officer: David G. Brown
Agricultural Officer: Phillip C. Holloway
Commercial Officers: Ying Price, William Brekke, Henry Richmond
Economic Section Chief: Gilbert J. Donahue
26 Garden Rd.
Telephone: (852) 5–239011
Telex: 63141 USDOC HX
Fax: (852) 877-2055

PRC GOVERNMENT OFFICES IN THE US

EMBASSY
Ambassador: Zhu Qizhen
Minister Counselor for Commercial Affairs: Wang Tianming
2300 Connecticut Avenue, N.W.
Washington, DC 20008
Commercial: (202) 328–2520 through 2527
Visas: (202) 328–2517
Telex: 440038 PRC UI
Commercial: 440673 PRCC UI

CHICAGO CONSULATE GENERAL
Consul General: Deng Chaocong
104 S. Michigan Avenue, Suite 1200
Chicago, IL 60603
Administration: (312) 346-0287
Visas and Consular Affairs: (312) 346-0288

HOUSTON CONSULATE GENERAL
Consul General: Ni Yaoli
Commercial Consul: Wang Yixuan
3417 Montrose Blvd.
Houston, TX 77052
Commercial: (713) 524–4064
Visas: (713) 524–4311
Telex: 762173 CHINCONSUL HOU

LOS ANGELES CONSULATE GENERAL
Consul General: Ma Yuzhen
501 Shatto Place, Suite 300
Los Angeles, CA 90020
Administration: (213) 380-3105
Visas: (213) 380-2506 & 2507
Fax: (213) 380-1961

NEW YORK CONSULATE GENERAL
Consul General: Weng Fupei
Commercial Consul: Shi Jingxin
520 12th Avenue
New York, NY 10036
Commercial: (212) 330–7428 & 7427
Visas: (212) 330–7409
Telex: 429134 CGCNY
Fax: (212) 502-0248

SAN FRANCISCO CONSULATE GENERAL
Consul General: Zhao Xixin
Commercial Consul: Lu Zuwen
1450 Laguna Street
San Francisco, CA 94115
Commercial: (415) 563–4858
Visas: (415) 563–4857
Telex: 4970121 CCSF